



**North Ayrshire Council**  
Comhairle Siorrachd Àir a Tuath

## **Planning Committee**

A Meeting of the **Planning Committee** of North Ayrshire Council will be held in the **Council Chambers, Ground Floor, Cunninghame House, Irvine, KA12 8EE** on **Wednesday, 24 May 2023 at 14:00** to consider the undernoted business.

### **Meeting Arrangements - Hybrid Meetings**

This meeting will be held on a predominantly physical basis but with provision, by prior notification, for remote attendance by Elected Members in accordance with the provisions of the Local Government (Scotland) Act 2003. Where possible, the meeting will be live-streamed and available to view at <https://north-ayrshire.public-i.tv/core/portal/home>.

#### **1 Declarations of Interest**

Members are requested to give notice of any declarations of interest in respect of items of business on the Agenda.

#### **2 Minutes**

The accuracy of the Minutes of the meeting held on 22 March 2023 will be confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973 (copy enclosed).

#### **3 23/00114/PP: Site to the North East of Wee Minnemoer, Millport, Isle of Cumbrae**

Installation of a photovoltaic solar farm, with associated battery energy storage systems and associated infrastructure (copy enclosed).

- 4      Notice under Sections 207 and 208 of the Town and Country Planning (Scotland) Act 1997: Site to North of Kirn Point, Lochranza, Isle of Arran**  
Submit report by the Executive Director (Place) seeking approval to promote a Path Diversion Order under sections 207 and 208 of The Town and County Planning (Scotland) Act 1997 to divert the Right of Way SCU123/1 (copy enclosed).
- 5      22/00712/MSCM: Site at Former Coal Terminal, Hunterston, West Kilbride**  
Submission of details pertaining to pre-commencement conditions relating to erection of a high voltage cable manufacturing facility (copy enclosed).
- 6      23/00131/PP: Site at Former Coal Terminal, Hunterston, West Kilbride**  
Variation of condition 11 of planning permission N/22/00133/PPPM relating to the construction of a high voltage sub-sea cable manufacturing facility (copy enclosed).
- 7      23/00190/PP: Site to Trearne Quarry, Gateside, Beith**  
Amendment of condition 2 of planning permission 15/00573/DCMS for the continuation of quarrying and the importation of soil forming materials to create a soils growing medium for the purpose of site restoration (copy enclosed).
- 8      Urgent Items**  
Any other items which the Chair considers to be urgent.

## **Webcasting**

Please note: this meeting may be filmed/recorded/live-streamed to the Council's internet site and available to view at <https://north-ayrshire.public-i.tv/core/portal/home>, where it will be capable of repeated viewing. At the start of the meeting, the Provost/Chair will confirm if all or part of the meeting is being filmed/recorded/live-streamed.

You should be aware that the Council is a Data Controller under the Data Protection Act 2018. Data collected during the webcast will be retained in accordance with the Council's published policy, including, but not limited to, for the purpose of keeping historical records and making those records available via the Council's internet site.

Generally, the press and public seating areas will not be filmed. However, by entering the Council Chambers, using the press or public seating area or (by invitation) participating remotely in this meeting, you are consenting to being filmed and consenting to the use and storage of those images and sound recordings and any information pertaining to you contained in them for webcasting or training purposes and for the purpose of keeping historical records and making those records available to the public. If you do not wish to participate in a recording, you should leave the meeting. This will constitute your revocation of consent.

If you have any queries regarding this and, in particular, if you believe that use and/or storage of any particular information would cause, or be likely to cause, substantial damage or distress to any individual, please contact [dataprotectionofficer@north-ayrshire.gov.uk](mailto:dataprotectionofficer@north-ayrshire.gov.uk).

---

## Planning Committee Sederunt

---

Robert Foster (Chair)  
Timothy Billings (Vice-Chair)  
Scott Davidson  
Stewart Ferguson  
Cameron Inglis  
Amanda Kerr  
Davina McTiernan  
Jim Montgomerie  
Ian Murdoch  
Chloe Robertson

Chair:

Apologies:

Attending:

At a Meeting of the Planning Committee of North Ayrshire Council at 2.00 p.m. involving a combination of participation by remote electronic means and physical attendance within the Council Chambers, Irvine.

**Present (Physical Participation)**

Robert Foster, Stewart Ferguson, Cameron Inglis and Davina McTiernan.

**Present (Remote Participation)**

Timothy Billings, Scott Davidson, Amanda Kerr, Jim Montgomerie, Ian Murdoch and Chloé Robertson.

**In Attendance**

Y. Baulk, Head of Service (Housing & Public Protection) and J. Miller, Chief Planning Officer (Place); and R. Lynch, Senior Manager (Legal Services), J. Niven, Solicitor (Legal Services) and C. Stewart and S. Wilson, Committee Services Officers (Democratic Services) (Chief Executive's Service).

**Chair**

Councillor Foster in the Chair.

**1. Declarations of Interest**

In respect of Agenda Item 3 (23/00070/PP: Site to Former Coal Terminal, Hunterston, West Kilbride), Councillor Murdoch made a transparency statement advising that he was as a member of Hunterston Park Liaison Committee. Having applied the objective test, he assessed that it was not an interest in terms of the Councillors' Code of Conduct which would prevent him from taking part in the decision. Accordingly, Councillor Murdoch did not require to leave the meeting for this item of business.

**2. Minutes**

The Minutes of the Meeting held on 22 February 2023 were confirmed and signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

**3. 23/00070/PP: Site to Former Coal Terminal, Hunterston, West Kilbride**

XLCC have applied for a Variation of conditions 9 and 18 of planning permission N/22/00133/PPPM relating to the construction of a high voltage sub-sea cable manufacturing facility at the site to Former Coal Terminal, Hunterston, West Kilbride.

The Chief Planning Officer advised that following preparation of the report, comments had been received from Fairlie Community Council and from a firm of Solicitors instructed by the Community Council. The Chief Planning Officer informed the Committee of the nature of comments received and the officer response.

Members asked questions and were provided with information in relation to:

- the risk of flooding with particular reference to finished floor levels;
- the rationale for the application coming forward at this time and whether there was an overall timeline for the full application; and
- the nature of a previous decision by the Planning Committee, in respect of a complete 'as one' application coming to the Committee for determination.

Councillor Inglis, seconded by Councillor Ferguson, moved that the application be granted, subject to conditions. There being no amendment, the motion was declared carried.

The Committee agreed to grant the application, subject to the following conditions:

1. That the permission was for a high voltage cable manufacturing facility with associated factories, research and testing laboratories, offices with associated stores, transport, access, parking and landscaping with on-site generation and electrical infrastructure and cable delivery system only and planning permission would be required for any other use within Class 5 of the Town and Country Planning (General Permitted Development) (Scotland) Order, as amended.
2. That the approval of North Ayrshire Council, as Planning Authority, with regard to the siting, design and external appearance of all building and external plant or machinery, including landscaping, means of access, internal roads, external lighting, sustainable travel plan and low and zero carbon technology, shall be obtained before the development permitted in principle is commenced.
3. That further application(s) for approval under the terms of Condition 1 shall be accompanied by an assessment of on-site heat recovery and re-use, or a heat network infrastructure plan, or demonstrable evidence that such schemes have been explored but are not feasible for technical or economic reasons.
4. That further application(s) for approval under the terms of Condition 1 shall be accompanied by a Construction Management Plan and Code of Practice, including details for monitoring and action against non-compliance. For the avoidance of doubt this shall include an assessment of use of the rail and port connections as a first principle and the prohibition of the use of the A78 through Fairlie, the B780/B781, the C26 and all local non-classified roads by construction vehicles and details of management of impact on the core path and cycle rout network.
5. That further application(s) for approval under the terms of Condition 1 shall be accompanied by details of an appointed Ecological Clerk of Works (ECoW). The details shall include contact details, the scope and responsibilities of the ECoW as well as confirmation of their power to halt or otherwise stop works which are not in accordance with the mitigation measures identified in the EIA or others, as may be approved.

6. Prior to development commencing the applicant shall implement the measures detailed under Mitigation Measures Adopted as Part of the Project in Chapter 9 Hydrogeology, Geology and Ground Conditions of the submitted EIA report dated February 2022. All documentation be verified by a suitably qualified Environmental Consultant and submitted to the satisfaction of North Ayrshire Council, as Planning Authority.
7. That further application(s) for approval under the terms of Condition 1 shall be accompanied by a Dust Management Plan. This shall include the measures detailed under Mitigation Measures Adopted as Part of the Project in Chapter 13 Air Quality of the submitted EIA report dated February 2022. All documentation be verified by a suitably qualified Environmental Consultant and submitted to the satisfaction of North Ayrshire Council as Planning Authority.
8. That further application(s) for approval under the terms of Condition 1 shall be accompanied by an assessment of the details in terms of the rated noise level, as defined in 'BS4142:2014+A1:2019, from the operation of the facility. The assessment must demonstrate that the noise from the operation of the facility will not exceed the background noise level at the curtilage of any existing or consented noise sensitive property at the time of application and include details of a monitoring scheme for the first 12 months of operation of the facility.
9. That further application(s) for approval under the terms of Condition 1 shall be accompanied by a scheme to treat surface water arising from the or otherwise affecting the site, prepared in accordance with the principles and practices contained in 'The SuDS Manual' (CIRIA report C7453, published November 2015) and the requirements of The Water Environment (Controlled Activities) (Scotland) Regulations 2011, and certified by a suitably qualified person, shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. Any scheme approved shall include details of proposed ground levels, finished floor levels, and pre & post development overland flows that shall demonstrate that people and property would not be put at flood risk during the designed storm event (1 in 200 return period plus an allowance for climate change and urban creep) when the capacity of the proposed infrastructure is exceeded.
10. That further application(s) for approval under the terms of Condition 1 shall be accompanied by a habitat survey dated not more than 1 year prior to the date of the submission of the application.
11. Prior to commencement of the development of the tower, details of a financial bond to be secured with the landowner for the removal of the tower in the event of redundancy shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. Any such bond shall be retained through the life of the development with confirmation to be provided to North Ayrshire Council, as Planning Authority, on a yearly basis following completion of the tower.

12. Should the tower become redundant, it shall be removed within 6 months of redundancy. For the avoidance of doubt, redundancy means the factory not becoming operational within 3 years of construction of the tower or the factory ceasing to operate for a period of more than 1 year after first becoming operational.
13. The prior to commencement of the development of the tower, details of the external finish shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. The development will thereafter be undertaken in accordance with any details as may be approved and the tower maintained with those details unless otherwise agreed in writing with the Planning Authority.
14. The prior to the commencement of the development of the tower, a Dust Management Plan for the control of dust from the construction of the tower shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. Thereafter the development shall be undertaken in accordance with any Plan as may be approved.
15. That prior to the commencement of the development of the tower, a Construction Management Plan and Code of Practice, including details for monitoring and action against non-compliance shall be submitted to North Ayrshire Council, as Planning Authority, for approval. Thereafter the construction shall be carried out only as approved by the Plan and Code of Practice. For the avoidance of doubt this shall include an assessment of use of the rail and port connections as a first principle and the prohibition of the use of the A78 through Fairlie, the B780/B781, the C26 and all local non-classified roads by construction vehicles and details of management of impact on the core path and cycle rout network.
16. That prior to the commencement of the development of the tower, details of an appointed Ecological Clerk of Works (ECoW) shall be submitted to North Ayrshire Council, as Planning Authority, for approval. The details shall include contact details, the scope and responsibilities of the ECoW as well as confirmation of their power to halt or otherwise stop works which are not in accordance with the mitigation measures identified in the EIA or others, as may be approved. The development will thereafter be undertaken only with the oversight of the appointed ECoW.
17. The rated noise level, as defined in `BS4142:2014+A1:2019, from the operation of the tower must not exceed the background noise level at the curtilage of any existing or consented noise sensitive property at the time of application.
18. The prior to the commencement of the development of the tower, that a scheme to treat surface water arising from the or otherwise affecting the site of the tower, prepared in accordance with the principles and practices contained in 'The SuDS Manual' (CIRIA report C7453, published November 2015) and the requirements of The Water Environment (Controlled Activities) (Scotland) Regulations 2011, and certified by a suitably qualified person, shall be submitted to North Ayrshire Council, as Planning Authority, for



written approval. Thereafter, the certified scheme shall be implemented prior to the completion of the development of the tower and maintained thereafter to the satisfaction of North Ayrshire Council, as Planning Authority. Any scheme approved shall include details of proposed ground levels, finished floor levels, and pre & post development overland flows that shall demonstrate that people and property would not be put at flood risk during the designed storm event (1 in 200 return period plus an allowance for climate change and urban creep) when the capacity of the proposed infrastructure is exceeded.

19. Prior to the commencement of the tower, confirmation that the basement proposals are sufficiently flood resilient/resistant, including an accompanying certified flood management plan suitably addresses residual flood risk at the site from all sources of flooding, certified by a suitable qualified person, shall be submitted in writing for the written approval of North Ayrshire Council, as Planning Authority.
20. In the event that the works to commence the tower are not undertaken within 1 year of the date of this permission, an updated habitat survey dated not more than 1 year prior to the date of commencement shall be submitted to North Ayrshire Council, as Planning Authority, for written approval prior to the commencement.
21. Prior to the commencement of the development, details of omni-directional red aviation warning lights to be fitted to the tower shall be submitted to North Ayrshire Council, as Planning Authority, for approval in consultation with Prestwick Airport, Air Traffic Control and the Ministry of Defence. The lighting will thereafter be fitted and retained thereafter in accordance with any details as may be approved.

#### **4. 23/00058/PP: Site to Oldhall ERF 16 – 20 Murdoch Place, Oldhall West Industrial Estate, Irvine**

Submitted report by the Chief Planning Officer regarding Proposal to increase flue height at energy recovery facility by an additional 10m as alternative to permitted scheme under refs. 20/00819/PPM and 19/00539/PPM.

Councillor Billings, seconded by Councillor McTiernan, moved that the application be granted, subject to conditions. There being no amendment, the motion was declared carried.

The Committee agreed to grant the application, subject to the following condition:

1. That the flue stack shall be fitted with an omni-directional red warning light which requires to be commissioned immediately upon erection of the stack. The warning light shall be operated continuously during hours of darkness and permanently retained in working condition thereafter unless otherwise agreed in writing with North Ayrshire Council as Planning Authority.

**5. 23/00120/PP: Site to Oldhall ERF 16 – 20 Murdoch Place, Oldhall West Industrial Estate, Irvine**

Submitted report by the Chief Planning Officer regarding Proposal for Variation of Condition 1 of planning permissions 19/00539/PPM and 20/00819/PPM to facilitate temporary 24 hour working on the slip forming of the approved concrete bunker.

Members asked questions and were provided with information in relation to:

- noise and addition of traffic movement at night, particularly in relation to trucks and the frequency of truck movements;
- the routes that the trucks would use and whether they would go through any residential areas on their way to and from the site; and
- the potential issue of light pollution at night and whether this could have an adverse impact on the amenity of nearby residential properties (or commercial property that provided overnight accommodation).

The Chief Planning Officer advised Committee that only one condition was involved in this application. Whilst the report mentioned a 'Temporary Construction Hours of Variation of Condition' document, this was a typographical error and should have read 'Temporary working hours supporting statement' (which was available online). Accordingly, Recommended Condition 1 should therefore be amended to reflect this.

Councillor Billings, seconded by Councillor Kerr, moved that the application be granted, subject to conditions (as revised). There being no amendment, the motion was declared carried.

The Committee agreed to grant the application, subject to the following condition:-

1. That condition 1 of planning permissions 19/00539/PPM and 20/00819/PPM are hereby amended as follows:

"That the development hereby approved shall be implemented in accordance with the details and recommendations contained in the supporting accommodation submitted with the planning application unless otherwise indicated below, and in accordance with the details submitted in the 'Planning Statement - Temporary Construction Hours' document dated 15/02/2023, all to the satisfaction of North Ayrshire Council as Planning Authority."

For the avoidance of doubt, all other conditions attached to the above planning permissions are unaffected by this decision and shall continue to have effect.

**6. 23/00097/CON: Site at Benthead Farm, Kilwinning**

Submitted report by the Chief Planning Officer regarding proposal for installation of a solar farm with a generating capacity of up to 63MW and a battery storage system with a capacity of up to 31.1MW and associated infrastructure.

Members asked questions and were provided with information in relation to:

- consideration of any risk assessment particularly in relation to fire risk, the issue of battery storage and the size of storage area that would require to be put in place for this;
- the issue of fencing, in terms of protecting the site from any external interference/disturbance; and
- the intended height of the deer fencing in relation to site boundaries.

Councillor Davidson, seconded by Councillor McTiernan, moved that the Committee agree it had no objections to the application, subject to conditions. There being no amendment, the motion was declared carried.

The Committee indicated that it had no objections to the application, subject to the following conditions:

1. That the development shall be implemented in accordance with the submitted plans, drawings and recommendations contained in the application (inclusive of all associated supporting reports and documentation) unless otherwise indicated below, all to the satisfaction of North Ayrshire Council as Planning Authority.
2. That prior to the commencement of the development, the applicant shall submit a Construction Environmental Management Plan for the written approval of North Ayrshire Council as Planning Authority, which shall address site construction traffic routes and management, working hours, dust suppression measures, noise control measures and surface water run-off control measures. Thereafter, the development shall be implemented in accordance with such details as may be approved to the satisfaction of North Ayrshire Council as Planning Authority.
3. That, for all roads/tracks accessing the site, visibility splays of 2.5 metres by 120 metres, in both directions, shall be provided and maintained at the junction with the associated public road. No item with a height greater than 1.05 metre above adjacent carriageway level must be located within these sightline triangles.
4. That, prior to the commencement of the development, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority a scheme of landscaping and tree planting. The scheme shall include:
  - the restoration of existing hedgerows, including the planting of hedgerow trees throughout the site;
  - the restoration of existing woodland areas, including the removal of diseased/dead trees and details of their replacement;
  - details of tree protection measures;
  - details of wild flower planting;The landscaping and tree planting scheme shall include details of species, planting densities, soil treatment and aftercare. Thereafter, the scheme as may be approved shall be implemented prior the development becoming operational and managed thereafter to the satisfaction of North Ayrshire Council as Planning Authority.

5. That, prior to the commencement of any peatland restoration, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority a detailed scheme of such works, including their timing and future management arrangements. Thereafter, the scheme as may be approved shall be implemented and managed during the lifespan of the solar farm to the satisfaction of North Ayrshire Council as Planning Authority.
6. That, unless otherwise agreed in writing by North Ayrshire Council as Planning Authority, the rated noise level, as defined in BS 4142:2014+A1:2019, from the operation of fixed plant and machinery, including the battery storage facilities, sub-station, transformers, etc. shall not exceed the background noise level at the curtilage of any noise sensitive property existing or consented at the time of the application.
7. That the solar farm and battery storage facilities hereby permitted shall be removed and the land restored for agriculture and/or nature conservation purposes within 40 years of the date of the consent, all to the satisfaction of North Ayrshire Council as Planning Authority, unless otherwise agreed beforehand.

## **7. Grouping of Trees in the grounds surrounding Moorpark House, Kilbirnie**

Submitted report by the Chief Planning Officer regarding the process and merits of protecting a group of trees located on the grounds of Moorpark House, Kilbirnie via a Tree Preservation Order (TPO).

The report indicated that concerns had been raised by a member of the public in connection with a lack of protection afforded to the trees, some of which were currently subject to works, located within the grounds of Moorpark House. Council Officers conducted a site visit and desk top analysis to assess the suitability of a TPO and relevant legislation. Accordingly, it was considered that the trees were an important characteristic of the local area and were visible from various parts of Kilbirnie and its fringes. The western part of the proposed TPO area was directly adjacent to a Core Path, which led from the edge of the town centre to the more rural northwest fringes of the settlement. The site was also allocated as Open Space within the Local Development Plan, which green infrastructure such as trees played a significant role in contributing to amenity and setting. A subsequent site visit confirmed a mix of tree species including Scots Pine, Sycamore, Lime, Larch and Horse Chestnut. The trees were found to have met the criteria for a TPO and the report recommended that this be served in the interests of protection of public amenity.

Councillor Inglis, seconded by Councillor Robertson, moved to support the serving of a TPO in line with the report recommendation. There being no amendment, the motion was declared carried.

The Committee agreed to the serving of a Tree Preservation Order (TPO) under Section 160 of the Town and Country Planning (Scotland) Act 1997.

## **8. Notice under Section 145 of the Town and Country Planning (Scotland) Act 1997: 17 Auldlea Road, Beith**

Submitted report by the Chief Planning Officer seeking authority to serve a Notice under Section 145 of the Town and Country Planning (Scotland) Act 1997 requiring compliance with Condition 1 of planning permission (ref. 22/00536/PP).

The report advised that on 5 June 2022, it was brought to the Council's attention that a conservatory extension had been erected to the rear of an end-terraced dwellinghouse at 17 Auldlea Road, Beith. Public concerns had been raised regarding the scale and height of the conservatory. The conservatory was measured on site and was found to have exceeded the height limits set out in Class 1A of the HPDR. Consequently, an application for planning permission was requested from the householder at 17 Auldlea Road, Beith.

A retrospective planning application was duly received in July 2022 and validated on 1 August 2022. Mitigation measures were discussed with the applicant's agent and it was agreed with the agent that the matter could be addressed by a condition. The planning application was duly granted, subject to conditions, on 27 September 2022.

Condition 1 of the permission stated that details of the obscure glazing required to be submitted within four weeks of the date of the decision (27 September 2022). However, the required details were not received within four weeks of the decision notice, nor since. Likewise, obscure glazing required as part of the second part of the condition had not been installed to the north elevation of the conservatory.

The Committee also noted that over five months had elapsed since the date of the decision. Accordingly, it was considered that the applicant has had sufficient time to comply with, or to challenge, the condition.

Accordingly, the Committee agreed to grant authority for the service of a Notice under Section 145 of the Town and Country Planning (Scotland) Act 1997 requiring compliance with Condition 1 of planning permission ref. 22/00536/PP at 17 Auldlea Road, Beith.

## **8. Chair's Closing Remarks**

The Chair informed the Committee that this was the last meeting which Jim Miller, Chief Planning Officer, would attend as he was retiring from Council service.

On behalf of the Committee, Councillor Foster thanked Mr Miller for all his expert guidance, dedication and commitment over many years, which had contributed to making North Ayrshire Council the best performing Planning Authority in Scotland and wished him a long and happy retirement. The Members present warmly concurred.

The meeting ended at 2.50 p.m.



## NORTH AYRSHIRE COUNCIL

24th May 2023

### Planning Committee

Locality	North Coast and Cumbraes
Reference	23/00114/PP
Application Registered	17th February 2023
Decision Due	17th April 2023
Ward	North Coast

---

<b>Recommendation</b>	Approved subject to Conditions
-----------------------	--------------------------------

---

<b>Location</b>	Site To The North East Of Wee Minnemoer Millport Isle Of Cumbrae Ayrshire
<b>Applicant</b>	Comsol Energy Limited
<b>Proposal</b>	Installation of a photovoltaic solar farm, with associated battery energy storage systems and associated infrastructure

---

### 1. Description

This can be ascertained by reference to the attached plans and photographs.

Planning permission is sought for the installation of a photovoltaic solar farm, with associated battery energy storage systems and associated infrastructure on a site to the North-East of Wee Minnemoer, Isle of Cumbrae.

The site is some 15.3ha of rough grassland and open moorland in the centre of Great Cumbrae. It lies to the east of the U36 Inner Circle Road linking Breakough Farm on College Street with Ferry Road. The site is relatively flat at its north-western corner before sloping to the east and south. The site is between approx. 120m AOD and 95m AOD in height.

The installation would be sited on the eastern and southern portions of the site, to make use of the slopes. The developed area would be approx. 9.25ha in size. The site would be accessed from the west, at the southern end of the western boundary. In addition to photovoltaic panels there would be an access road, electricity sub-station equipment and battery storage. The equipment would be between 4.2m and 5.3m in height. The panels would be arranged in rows facing south.

Planning permission was granted in March 2017 (ref: 16/00124/PP) for a similar development to that currently proposed.

In March 2020 an application (ref: 20/00232/PP) was made to vary some of the conditions attached to the 2017 permission. Had this been approved, the 2017 permission would essentially have been extended for another 3 years. The application sought to allow a longer period before the site was to be decommissioned and to allow works to commence prior to providing passing places on the U36 Inner Circle Road. This application was refused as it was not considered that the development was appropriate with the varied conditions. An appeal to the Local Review Body was dismissed.

The 2017 permission (ref: 16/00124/PP) lapsed on 29th March 2020 as no material start to the development was made.

A planning application was submitted in July 2022 (ref: 22/00385/PP) for a similar proposal. This was withdrawn by the applicant in September 2022. They stated that wished to withdraw in order to consider comments raised and re-submit.

The current application was screened under the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. The Council, as Planning Authority, issued a decision 30th January 2023 that an Environmental Impact Assessment was not required.

In support of the current application the following information, including an Environmental Report which summarises the other documents, has been submitted by the applicant:

### **Planning Statement**

This summarises the site context and background. It sets out the planning policies and provides the applicant's assessment of the development against those policies.

### **Heritage Impact Assessment**

This assesses the likely impact of the development on heritage assets and concludes it would be negligible. It concludes that although there is no evidence of prehistoric use, given the position in the middle of the island, there is a low to medium possibility of prehistoric remains surviving. There is a low possibility of remains from any other era, except for the early medieval, where there is a low to medium possibility of remains associated with a private church in the south-west corner.

It considers that the setting of the Millport Conservation Area and associated Listed Buildings would not be materially changed by the development. There is one other non-statutory heritage asset, a vitrified fort some 1.4km to the north-east which would also not have its setting impacted by the development.

The assessment suggests mitigation in the form of a scheme of archaeological investigation works prior to or during any works.

### **Landscape and Visual Impact Assessment (LVIA)**



The LVIA has assessed the potential for significant landscape and visual effects across an area of 5km. Assessments have also been carried out from wider locations including Portencross Harbour, Little Cumbrae Castle and the Waterhead Moor Wild Land Area.

The assessment identifies the site in a coastal landscape where the prevalent land use is agriculture. The proposed development is considered suitable for the landscape type, given the low-level nature of the development and the existing industrial development which are within views in the wider area. Any significant effects would extend for approx. 750m from the site and be localised due to the topography and landscape features such as woodland and field boundaries. The development would not detract in townscape views of Millport nor of seascape views towards the island or Arran or Bute.

The development is considered to have a significant impact when viewed from the Glaid Stone viewpoint and some localised parts of the NC2 core path (the Inner Circle road). This is due to the proximity of the development. From other receptors including transport routes, it is not considered there would be any significant impact.

Compensatory planting is proposed to reduce impact on any local landscape features. The areas of rough grassland removed to facilitate development is considered minor in the context of the overall landscape. Any impact is considered to be short-term and neutral against the existing conditions. Landscaping, particularly along northern and western boundaries, could additionally mitigate any impacts.

### **Preliminary Ecological Appraisal and Extended Vegetation Survey**

The site is considered to mainly consist of heavily grazed grassland/wet heath, marshy grassland and dense scrub. There were no field signs of protected species recorded within the site, although it is noted that the habitats could be utilised for resting, foraging and commuting.

The Extended Vegetation Survey was conducted in respect of SEPAs comments from the withdrawn application of 2022 and provides further information in respect of habitats. There are six wetland habitats within the site. The development is not considered to lead to significant alterations in groundwater flows and levels. No negative impact on groundwater is anticipated. Mitigation measures for any works on site are proposed including, a Construction Environment Management Plan (CEMP) including pre-commencement checks, meeting the guidelines of bodies such as SEPA and construction management practices; and a post-construction Habitat Management Plan (HMP).

### **Hydrological Assessment**

This identifies that baseline water runoff should remain unchanged as the land underneath the panels will remain vegetated and capable of receiving water runoff. The runoff from the hard standings for the track, battery storage and other equipment is considered to be accommodated within the site and no transfer of water runoff to another water catchment area should occur. The development is not considered to be situated within the functional floodplain. The crossing of the watercourse should be designed to accommodate flood flows to prevent a risk of flooding within the site and downstream.

### **Transport and Access Statement**

This provides details of proposed traffic management measures during construction, decommissioning and operational phases. The access route is considered to be feasible and any increase to traffic flows would be minor during the construction phase. Deliveries of panels and equipment is expected to be phased over an 8-week period. Details of potential visibility splays and passing places are provided.

### **Glint & Glare Technical Note.**

This is an assessment of the likely impact on air traffic and was produced in response to comments by Glasgow Prestwick Airport on the withdrawn 2022 application. It is noted that Glasgow Prestwick Airport has reviewed the Note and does not object to this application.

The application site lies within the Countryside, the Special Landscape Area of Cumbrae and Barbay Hill Local Nature Conservation Site (LNCS), as identified by the adopted Local Development Plan (LDP). It is considered that the relevant policies of the LDP are Strategic Policy 1: Countryside Objective; Strategic Policy 2: Placemaking, Policy 9: Preserving and Enhancing our Conservation Areas, Policy 15: Landscape and Seascape, Policy 16: Protection of our Designated Sites and Policy 29: Energy Infrastructure Development.

National Planning Policy 4 (NPF4) was adopted on 13th February 2023. NPF4 is considered to form part of the development plan. The relevant policies are considered to be Policy 1: Tackling the climate and nature crises; Policy 3: Biodiversity; Policy 11: Energy; Policy 22: Flood risk and water management.

Other material considerations which do not form part of the development plan include: the planning history for the site; the North Ayrshire Council Cumbrae Island Plan, dated March 2022; and the Scottish Government's Carbon Neutral Islands (CNI) project, which is a 2021-2022 programme for government commitment aimed at supporting six islands to become carbon neutral by 2040. The definition of 'carbon neutral', in the context of this project means an island where the greenhouse gas emissions, captured as CO2 equivalent, are in balance with carbon sinks.

### **Relevant Development Plan Policies**

#### **SP1 - The Countryside Objective**

We recognise that our countryside areas play an important role in providing homes, employment and leisure opportunities for our rural communities. We need to protect our valuable environmental assets in the countryside while promoting sustainable development which can result in positive social and economic outcomes. We want to encourage opportunities for our existing rural communities and businesses to grow, particularly on Arran and Cumbrae, and to support these areas so that they flourish.

We also recognise that, in general, countryside areas are less well suited to unplanned residential and other developments because of their lack of access to services, employment and established communities. We will seek to protect our prime and locally important agricultural land from development except where proposals align with this spatial strategy. In principle, we will support proposals outwith our identified towns and villages for:

- a) expansions to existing rural businesses and uses such as expansions to the brewery and distillery based enterprises in the area.

- b) ancillary development for existing rural businesses and uses, including housing for workers engaged in agriculture or forestry.
- c) developments with a demonstrable specific locational need including developments for renewable energy production i.e. wind turbines, hydroelectric schemes and solar farms.
- d) tourism and leisure uses, where they would promote economic activity, diversification and sustainable development, particularly where they develop our coastal tourism offer/ infrastructure.
- e) developments which result in the reuse or rehabilitation of derelict land or buildings (as recognised by the Vacant and Derelict Land Survey) for uses which contribute to the Green and Blue Network such as habitat creation, new forestry, paths and cycle networks.
- f) sensitive infilling of gap sites consolidating existing developments where it would define/provide a defensible boundary for further expansion.
- g) small-scale expansion of settlements on Arran and Cumbrae for community led proposals for housing for people employed on the island, where a delivery plan is included, and infrastructure capacity is sufficient or can be addressed by the development and where the proposal meets an identified deficiency in the housing stock and is required at that location. All proposals will be expected to demonstrate the identified housing need cannot be met from the existing housing land supply.
- h) new housing in the countryside where it is a replacement or converted building or it is a house of exceptional design quality.
- i) sympathetic additions to existing well-defined nucleated groups of four or more houses (including conversions) in close proximity to one another and visually identifiable as a group with some common feature e.g. shared access. Additions will be limited to 50% of dwellings existing in that group as of January 2005 up to a maximum of four new housing units (rounded down where applicable).

## Strategic Policy 2

Our Placemaking policy will ensure we are meeting LOIP priorities to make North Ayrshire safer and healthier by ensuring that all development contributes to making quality places. The policy also safeguards, and where possible enhances environmental quality through the avoidance of unacceptable adverse environmental or amenity impacts. We expect that all applications for planning permission meet the six qualities of successful places, contained in this policy. This is in addition to establishing the principle of development in accordance with Strategic Policy 1: Spatial Strategy. These detailed criteria are generally not repeated in the detailed policies section of the LDP. They will apply, as appropriate, to all developments.

### Six qualities of a successful place

#### Distinctive

The proposal draws upon the positive characteristics of the surrounding area including landscapes, topography, ecology, skylines, spaces and scales, street and building forms, and materials to create places with a sense of identity.

#### Welcoming

The proposal considers the future users of the site and helps people to find their way around, for example, by accentuating existing landmarks to create or improve views

(including sea views), locating a distinctive work of art in a notable place or making the most of gateway features to and from the development. It should also ensure that appropriate signage and lighting is used to improve safety and illuminate attractive buildings.

#### Safe and Pleasant

The proposal creates attractive places by providing a sense of security, including by encouraging activity, considering crime rates, providing a clear distinction between private and public space, creating active frontages and considering the benefits of natural surveillance for streets, paths and open spaces.

The proposal creates a pleasant, positive sense of place by promoting visual quality, encouraging social and economic interaction and activity, and by considering the place before vehicle movement.

The proposal respects the amenity of existing and future users in terms of noise, privacy, sunlight/daylight, smells, vibrations, glare, traffic generation, and parking. The proposal sufficiently investigates and responds to any issues of ground instability.

#### Adaptable

The proposal considers future users of the site and ensures that the design is adaptable to their needs. This includes consideration of future changes of use that may involve a mix of densities, tenures, and typologies to ensure that future diverse but compatible uses can be integrated including the provision of versatile multi-functional greenspace.

#### Resource Efficient

The proposal maximises the efficient use of resources. This can be achieved by re-using or sharing existing resources and by minimising their future depletion. This includes consideration of technological and natural means such as flood drainage systems, heat networks, solar gain, renewable energy and waste recycling as well as use of green and blue networks.

#### Easy to Move Around and Beyond

The proposal considers the connectedness of the site for people before the movement of motor vehicles, by prioritising sustainable and active travel choices, such as walking, cycling and public transport and ensuring layouts reflect likely desire lines, through routes and future expansions.

### Detailed Policy 9 - Conservation Areas

#### Preserving and Enhancing our Conservation Areas

Development within or adjacent to a Conservation Area, that preserves or enhances its character and appearance, and is consistent with any relevant Conservation Area Appraisal or Management Plan, will be supported providing it can be demonstrated that it retains appropriate scale, proportion, siting, massing, design, and use of materials whilst not inhibiting high quality innovative design.

There is a presumption against the demolition of unlisted buildings that contribute positively towards the character and appearance of a Conservation Area. Proposals will only be supported in the following exceptional circumstances:

- i) The proposal is accompanied by a suitable redevelopment of the site which contributes positively toward the character and appearance of the Conservation Area. Such proposals should also include interim landscaping or sensitive screening of the site. We will also expect proposals to be accompanied by an implementation

timetable and where the redevelopment period is considered to be excessive the demolition will generally be resisted.

AND

- ii) A competent assessment of the building's contribution to the Conservation Area has concluded that there is little or no value in the building's retention; and
    - o The repair or reuse of the building is not economically viable; or
    - o The demolition of the building is essential to delivering significant benefits to the wider community economically, socially or environmentally.
- Works to trees within Conservation Areas will be supported where they are:
- o Part of an agreed scheme of tree management; or
  - o Required on the grounds of safety or nuisance; or
  - o Directed towards trees which are not of a material value to the conservation area (i.e. the trees are small, self-seeded saplings; or not otherwise visible to the public/neighbours - they are remotely located; or fast growing tree species such as conifers, leylandii etc.); or
  - o In association with a wider development proposal which would enhance the amenity of the conservation area overall - including one where suitable replacement trees can be accommodated.
- Further information on our Built Heritage Designations can be found in schedule 9.

### Detailed Policy 15-Landscape & Seascape

#### Landscape and Seascape

We will support development that protects and/or enhances our landscape/seascape character, avoiding unacceptable adverse impacts on our designated and non-designated landscape areas and features. In particular, we will consider the following:

- a) National Scenic Areas  
Development that affects the North Arran National Scenic Area including the need to protect existing sport and recreation interests, will only be supported where:
  - i) the objectives of the designation and the overall integrity of the area will not be compromised; or
  - ii) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.
- b) Special Landscape Areas  
We will only support development which affects Special Landscape Areas where it would not have an unacceptable impact on their special character, qualities and setting.
- c) Wild Land  
We will only support development within Wild Land areas where any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation.
- d) Local Landscape Features  
Where appropriate, development should take into consideration its individual and cumulative impacts on landscape features, including:

- i) patterns of woodlands, fields, hedgerows and trees;
- ii) lochs, ponds, watercourses, wetlands, the coast and wider seascape;
- iii) settlement setting, including approaches to settlements;
- iv) the setting of green network corridors, such as important transport routes and the cycle and footpath network;
- v) historic, natural and recreational features of interest, skylines and hill features, including important views to, from and within them.

For all development with the potential to have an impact on either Landscape Character or Landscape features (including their setting), appropriate mitigation measures should be considered as part of any planning application. Where there is potential for development to result in significant adverse landscape/visual impact, a landscape and visual impact assessment (LVIA) will be required. The Ayrshire Landscape Character Assessment (SNH, 1998) and North Ayrshire Settlement Development Strategy (Entec, 2008) provide further information on designations such as Local Landscape Character Areas and the Potential Limit of Development Expansion areas as shown on the map on page 81 and on our online proposals map. These landscape assessment documents, and any new or updated landscape assessments, will be key considerations in determining whether development proposals would be acceptable within the landscape.

#### Detailed Policy 16- Protection of our Designated Sites

##### Protection of our Designated Sites

We will support development which would not have an unacceptable adverse effect on our valuable natural environment as defined by the following legislative and planning designations;

- a) **Nature Conservation Sites of International Importance**  
Where an assessment is unable to conclude that a development will not adversely affect the integrity of a site, development will only be permitted where there are no alternative solutions; there are imperative reasons of overriding public interest; and suitable compensatory measures are provided to ensure that the overall coherence of the Natura Network is protected.
- b) **Nature Conservation Sites of National Importance**  
Development affecting Sites of Special Scientific Interest will not be permitted unless it can be demonstrated that the overall objectives of the designation and the overall integrity of the designated area would not be compromised, or any adverse effects are clearly outweighed by social, environmental or economic benefits of national importance.
- c) **Nature Conservation Sites of Local Importance**  
Development adversely affecting Local Nature Reserves or Local Nature Conservation Sites will generally not be permitted unless it can be demonstrated the overall objectives of the designation and the overall integrity of the designated area would not be compromised, or any adverse effects are clearly outweighed by social, environmental or economic benefits of local importance.
- d) **Marine Protected Areas**

Development likely to have an adverse effect on the protected features of South Arran MPA will not be supported. Proposals are also required to consult with the Clyde Marine Planning Partnership (CMPP).

- e) **Biodiversity Action Plan Habitats and Species**  
Development adversely affecting priority habitats or species set out in the North Ayrshire Local Biodiversity Action Plan will not be permitted unless it can be demonstrated the impacts are clearly outweighed by social or economic benefits of local importance.
- f) **Protected Species**  
Development likely to have an unacceptable adverse effect on;
  - i) European Protected Species (see Schedules 2 & 4 of the Habitats Regulations 1994 (as amended) for definition); Birds, Animals and Plants listed on Schedules 1, 5 and 8 (respectively) of the Wildlife and Countryside Act 1981 (as amended); or badgers, will only be permitted where the applicant can demonstrate that a species licence is likely to be granted.
  - ii) The Scottish Biodiversity List (SBL) of animals, plants and habitats that Scottish Ministers considered to be of principle importance for biodiversity conservation in Scotland.

#### Detailed Policy 29 - Energy Infrastructure Development

##### Energy Infrastructure Development

We will support development proposals for energy infrastructure development, including wind, solar, tidal, cropping and other renewable sources, where they will contribute positively to our transition to a low carbon economy and have no unacceptable adverse environmental impacts, taking into consideration (including cumulatively) the following:

##### Environmental

- o Communities and individual dwellings - including visual impact, residential amenity, noise and shadow flicker;
- o Water quality;
- o Landscape - including avoiding unacceptable adverse impacts on our landscape designations;
- o Effects on the natural heritage - including birds;
- o Carbon rich soils including peat;
- o Impacts on the historic environment - including scheduled monuments, listed buildings and their settings.

##### Community

- o Establishing the use of the site for energy infrastructure development;
- o providing a net economic impact - including socio-economic benefits such as employment, associated business and supply chain opportunities;
- o Scale of contribution to renewable energy generation targets;
- o Public access - including impact on long distance walking and cycling routes and scenic routes identified in the National Planning Framework;
- o Impacts on tourism and recreation;
- o Specific locational opportunities for energy storage/generation.

##### Public Safety

- o Greenhouse gas emissions;
- o Aviation and defence interests and seismological recording;
- o Telecommunications and broadcasting installations - particularly ensuring that transmission links are not compromised; radio telemetry interference and below ground assets;
- o Road traffic and adjacent trunk roads;
- o Effects on hydrology, the water environment and flood risk including drinking water quality and quantity (to both the public and private water supplies);
- o Decommissioning of developments - including ancillary infrastructure, and site restoration and aftercare.

Proposals should include redundancy plans which will demonstrate how apparatus will be timeously removed as reasonably soon as the approved scheme ceases operation. There may be a requirement for financial bonds to ensure that decommissioning can be achieved. Taking into consideration the above, proposals for wind turbine developments should accord with the Spatial Framework (as mapped) and consider the current Landscape Capacity Study for Wind Farm Development in North Ayrshire. This study will be used as a point of reference for assessing all wind energy proposals including definitions of what small to large scale entails.

#### Buildings: Low and Zero Carbon Generating Technology

Proposals for all new buildings will be required to demonstrate that at least 10% of the current carbon emissions reduction set by Scottish Building Standards will be met through the installation and operation of low and zero-carbon generating technologies. A statement will be required to be submitted demonstrating compliance with this requirement. The percentage will increase at the next review of the local development plan.

This requirement will not apply to:

1. Alterations and extensions to buildings
2. Change of use or conversion of buildings
3. Ancillary buildings that stand alone and cover an area less than 50 square metres
4. Buildings which will not be heated or cooled, other than by heating provided solely for frost protection.
5. Buildings which have an intended life of less than two years.

## 2. Consultations and Representations

The application was advertised in accordance with statutory requirements. There have been 116 representations received of which 108 are objections, 1 neutral representation and 7 comments in support.

The objections can be summarised as follows:

1. Location. The proposal should be in another location. There are many other more suitable sites on the mainland. This should be on an industrial site. Wind farms on the mainland should be considered. An island site will make the proposal less viable. There is not enough sunshine to justify the proposal. This will set an undesirable precedent for other green spaces.



*Response: The application must be determined on its individual merits, including the proposed location. As such no precedent would be set. The LDP can support renewable energy in rural locations so the principle of such development in such an area is acceptable. Planning permission has been granted for a similar development on this site previously.*

2. Visual impact. The proposal will have an adverse impact on the views obtainable from the top of the island. It will take up 1% of the surface of the island. It is considered the site is too big. It is bigger than the previous proposals. It will be visible for many miles and impact on views of the island. It would impact on views from roads approaching Largs. It would be visible from most of the Conservation Area. It would create a cumulative impact with the other industrial sites visible from the island. The site is part of a Special Landscape Area. The proposal would impact on views of the town. The substations etc have not been incorporated in the LVIA. The LVIA should include more photomontages. The Council's Landscape Capacity Assessment describes the site a 'sensitive landscape.'

*Response: It is agreed that the development would be visible from the highest point of the island. It would also be visible from some views further afield. The visual impact is assessed fully below. It is not agreed that the development would be visible from most of or impact on the Millport Conservation Area. The site is some 3km from the Hunterston industrial estate at its closest point and whilst both sites may be visible in some long views it is not considered there would be any cumulative visual impact. The submitted LVIA is sufficient for the determination of the application. The impact on the Special Landscape Area and wider landscape is considered below. The Council's Landscape Capacity Assessment is dated 2008 and was prepared to inform housing expansions to settlements for the 2009 Local Plan.*

3. Wildlife/habitats. The site is home to various wildlife. The LNCS will be impacted. The water-based ecosystem of the site is a home to unique species of insects and a site for breeding birds. The solar panels present a leachate risk to the environment. Bats forage over the site. Otters are known to use the area. The site cannot be returned to its previous condition until all toxic chemicals are cleared from the site. If permission is granted there should be a condition requiring restoration when the lifespan of the proposal finishes. Whilst in operation the site will not support any wildlife. It is not considered that appropriate surveys have been carried out. There will be a loss of agricultural land.

*Response: No protected species have been identified on site. Whilst it is noted that the site could be used by such species this would be a matter for the developer to obtain appropriate licences from NatureScot, if required. It is noted NatureScot declined to comment on the application. SEPA has considered the application and has no objection in terms of water environment. Their comments are set out below. The use of the site could support wildlife as the panels will be set above ground. The land is designated as being capable of use as improved grass land and is not identified as being high quality agricultural land, as per the MacAulay Institute land capability system. The proposal has been screened for EIA as set out above.*

4. Road/traffic. There will be an adverse impact on the road network. The road will be destroyed by HGVs. The construction traffic would be an accident risk. The road to the site is used by walkers and cyclists. The ferry service could not cope with an increase in traffic. Air traffic would be impacted by glare. There are no details as to the works to the verges.

*Response: NAC Active Travel and Transportation has been consulted and has not objected. Their comments are set out below. Details of road upgrade and construction management could be governed by conditions. Glasgow Prestwick Airport has no objection to the proposal.*

5. Tourism. The impact on views and the transport network will put tourists off coming to the island. The economy of the island would be impacted by the loss of tourists. The proposed CCTV would impinge on the privacy of people at the viewpoint. The walk around the Inner Circle would be ruined by the fence and CCTV.

*Response: The potential impact on tourism and the economy of the island is considered below. The impact of the development is assessed more fully below.*

6. Carbon neutral/planning history. The proposal is fundamentally at odds with the national carbon neutral islands proposals. That policy will ensure an assessment of the needs of the island and how they might be met through renewable energy, in consultation with residents. This has not happened yet and therefore the proposal is premature. The proposal is also at odds with the Local Island Plan. The proposal is contrary to the Islands (Scotland) Act 2018 and the Community Empowerment (Scotland) Act 2015. It is not possible to make Cumbrae a carbon neutral island. The proposal does not accord with the Local Development Plan. The planning history of the site is irrelevant.

*Response: It is not considered that a renewable energy development would be odds with a carbon neutral aspiration. The Island Plan is considered to be a material consideration and is considered below. The proposal is assessed against the LDP below. The planning history of the site is a material consideration for any planning application.*

7. Flooding. Water run-off from the site could flood the town.

*Response: SEPA and NAC Flooding were consulted and offer no objections. Their comments are noted below.*

8. Further information. No EIA has been carried out. There should be more information on the details of the solar panels, specifically elevations or sections. There is no information as to how the site would be connected to the National Grid. Pylons on the hillside would add to the visual impact. New cables under the sea could be required. No proof has been submitted that the development will not impact on residents of the island in the future.

*Response: The proposal has been screened for EIA in accordance with the regulations and no EIA is required. The applicant has provided details of the installation of the panels. Any connection to the grid would be a matter under the Electricity Act and is not relevant to the planning application.*

9. Health risk. The manufacture of panels involves harmful chemicals. There is fire risk associated with the development and the fire service may not be able to cope.

*Response: No manufacturing of panels on the site is proposed and therefore this is not relevant to this planning application. The risk of accidents was considered through the EIA screening and no considered to be any greater than may be expected in a development of this scale.*

10. Applicant. The applicant has no connection with the island. They do not have sufficient funds or a track record of developing such proposals. There will be no direct benefits to the community in terms of cheaper electricity. There would be no jobs for the local community. The consultation process was not considered effective.

*Response: The applicant's connection or otherwise to the island or their track record is not a material planning consideration. Financial benefits are not material considerations in relation to this planning application. Given the scale of the proposal, no consultation was required by the applicant under planning legislation. However, it is understood they undertook consultation. The adequacy or otherwise would be a matter for themselves and is not relevant to the planning application.*

The 7 comments in support can be summarised as follows:

1. Do not accept the Community Council's campaign against the development. The site is suitable. It is not acceptable to state that it should be elsewhere. The Island has suffered from a lack of investment for many years. Would like the works to start as soon as possible. This will bring economic benefit.

*Response: Noted.*

2. The Island should share the national project to reduce emissions. The Island will benefit from the electricity fed into the national grid. As a carbon neutral island this should be embraced. The area is less than 1% of the island. The benefits to the environment in terms of creating renewable energy outweighs any other concerns. This can only be a positive step for an island which seeks to be carbon neutral. Cumbrae should play its part in tackling climate change.

*Response: Noted.*

3. Do not accept that it will affect tourism. Views from the Island will be unaffected. The Hunterston power stations, and industry has been in sight for many decades. Most tourists enjoy the town, beaches and low road around the Island.

*Response: Noted.*

The 1 neutral representation can be summarised as follows:

1. Generally in favour but would like more visual representations.

*Response: The information provided is considered adequate for the purposes of the planning application.*

The applicant has provided a response to the comments raised, which can be summarised as follows:

- o The planning policy position has changed since the previous permission, with the current policies strengthening the need for renewable energy development;
- o Details of the panel arrays, fencing and CCTV have now been provided;

- o The details of the grid connection would be for the District Network Operator under the Electricity Act, although they would provide those details once known to the Council for information;
- o They are proposing a list of enhancement measures which will enhance biodiversity.
- o The site was selected due to its planning history and there is no requirement for a site selection process. Applications must be determined on their own merits.
- o The applicant is willing to make a contribution to community funding in order to ensure benefit to the local community. The applicant will be in touch with the Community Council separate to the planning process.

*Response: The applicant's response on these points is noted. On the last point, this is not a material planning consideration. The applicant and Community Council or any other local group would be entitled to have such discussions.*

The following bodies were consulted:

**NatureScot** - The application falls below the threshold for development on which they will comment.

*Response: Noted. It is also noted that when the previous application (ref: 16/00124/PP) was determined, NatureScot did not consider there would be any significant environmental effects arising from the proposal.*

**SEPA** - No objection. The Extended Vegetation Survey and Assessments have been carried out as per the requirement. It is agreed that the water habitats are mostly surface water fed. The recommendation that a post-construction Habitat Management Plan (HMP) should be produced is welcome.

*Response: Noted. An HMP could be required to be submitted and approved as a condition if permission is granted.*

**Scottish Wildlife Trust** - The Trust objects to the proposal. It does not appear that there is any justification for the choice of this location in comparison to other sites. The site is within the Barbay Hill Local Nature Conservation Site. The Trust considers that the overall integrity of the LNCS would be compromised. The habitat of the site is dependent on hydrology, and they consider that this would be adversely impacted. They consider the proposal is contrary to Policy 16 of the LDP and Policy 3b of the NPF4 and that there are no considerations which outweigh the potential impact. If permission is granted, then the Ecological Impact Assessment (EclA) and all mitigation measures identified in the Extended Vegetation Survey should be carried out.

*Response: Noted. The proposal is assessed against all relevant policies of the LDP and NPF4. SEPA has been consulted and has no objections in terms of hydrology. If permission is granted conditions could be attached requiring appropriate mitigation measures to be undertaken.*

**Glasgow Prestwick Airport** - No objection.

*Response: Noted.*

**NAC Active Travel and Transportation (Roads)** - No objection. The applicant should contact Roads for a road inspection. The proposed passing places should be retained permanently.

*Response: Noted. Conditions relating to the road improvements could be applied to any permission, if granted.*

**NAC Flooding** - The proposed mitigation, including the proposal for culvert crossing, landscaping and sediment management, should be incorporated in any permission.

*Response: Noted. Such requirements could be governed by condition if permission is granted.*

**NAC Environmental Health** - The rated noise level from the operation of the proposed development must not exceed background noise level at the curtilage of the nearest noise sensitive property by 5dB. The development must not interfere with any private water supply.

*Response: Noted. The noise level could be controlled condition. The applicant has been made aware of the NAC Environmental Health's comments.*

**West of Scotland Archaeology Service** - The issues raised in terms of archaeology can be adequately dealt with by condition.

*Response: Noted. The requirement for a programme of archaeological works can be required by condition to any permission if granted.*

**Cumbræ Community Council (CCC)** - The CCC sought comments and received 237 objections and 3 responses in support.

The CCC object to the proposal. They consider that due to policy changes the principle of a solar farm in this location is not agreed. They consider that the policies of the LDP and NPF4 do not support the proposal. Any carbon neutral proposal should be community led. There is no detail of the connection to the National Grid, this is considered to be contrary to Policy 18b of NPF4 which requires provision is made to address impact on infrastructure. There are no elevations or sections of the solar panels. There is no detail for the CCTV installations etc. They do not consider there is sufficient information for the other aspects of the proposal. The proposed passing spaces would lead to further loss of habitat. There is not enough information regarding the transport requirements.

The land is agricultural land used for grazing. There are a number of habitat types within the land. They are important habitats for many species of birds including some endangered birds. They do not consider that the surveys carried out by the application is sufficient. An EIA should have been required for the proposal.

The development would be detrimental to tourism which is the which is the main economic driver for the island. The ferries would be impacted by construction traffic to the detriment of tourism and residents. This proposal also pre-empts the Carbon Neutral Island project launched in 2022. This should be a community led project.

Do not consider that the LVIA reflects what will actually be seen. There are no permitted development rights within Conservation Areas for solar panels, which includes most of Millport.

There has been a lack of engagement with the community. Notice of the event held by the applicant were not received until after the event. No changes have been made since the previous application was withdrawn.

The CCC provided a further response, following the applicant's response to the comments raised. This essentially reiterates their objections previously set out. They consider that the current policy context does not support the proposal. They consider that there would be an impact on food security due to a loss of grazing land. They give an example of an application for planning permission elsewhere, where a grid connection was provided. The fence drawings are 3m in height whereas in the planning statement it is referred to as 2m.

*Response: The CCC's comments are similar to the points raised by the public and have been addressed above. Policy18b of NPF4 states that development should only be supported where there is provision to address impacts on infrastructure. It is not considered that this relates to connection to the National Grid. Such connections are permitted development under Class 40 of the General Permitted Development Order or a matter under the Electricity Act and is not relevant to the planning application. Such a connection would be determined by the District Network Operator (Scottish Power) and, if necessary, the Scottish Government's Energy Consent Unit. The fence has been assessed as per the submitted plans.*

### **3. Analysis**

S.37 of the Town and Country Planning (Scotland) Act 1997 states that in dealing with an application the Planning Authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. The development plan for the area is considered to be the LDP, adopted in November 2019, and NPF4, adopted in February 2023.

Strategic Policy 1, the Countryside Objective, of the LDP states that in principle support will be given to proposals outwith towns and villages for a range of developments including developments with a demonstrable specific locational need including development for renewable energy production i.e., solar farms.

The proposal is therefore acceptable in principle in respect of Strategic Policy 1. However, the specific details of the site and the suitability of this specific location require to be assessed against the other policies of the development plan.

Policy 1 of NPF4 states that when considering all development proposals, significant weight must be given to the global climate and nature crises.

Strategic Policy 2 of the LDP relates to placemaking and sets out the qualities of a successful place, this includes visual considerations, amenity impacts and the connectedness of a site. Policy 14 of NPF4 is essentially a reiteration of Strategic Policy 2 of the LDP.

Policy 29: Energy Infrastructure Development of the LDP states that support will be given to energy infrastructure developments where they contribute positively to North Ayrshire's transition to a low carbon economy and have no unacceptable adverse environmental impacts. The relevant factors to be considered, including cumulatively, are as follows: visual impact; landscape; impact on the historic environment; residential amenity and noise; natural heritage; establishing the use of the site for energy infrastructure; providing a net economic impact; scale of contribution to renewable energy targets; public access; impact on tourism and recreation; aviation interests; road traffic; effects on the water environment; and decommissioning.

Policy 11 of NPF4 states that proposal for all forms of renewables will be supported including solar arrays. Proposals will have to be considered against the same criteria set out in Policy 29 of the LDP.

### Visual/Landscape

Policy 15: Landscape and Seascape of the LDP states that support will be given to development that protects and/or enhances the landscape/seascape character of the area. Support will only be given to development in Special Landscape Areas where it would not have an unacceptable impact on their special character, qualities and setting. Proposals should take into account local landscape features.

Policy 29 of NPF4 states that development proposals in rural areas should be suitably scaled, sited and designed to be in keeping with the character of the area.

The development would comprise the installation of solar panel arrays with associated infrastructure. The application site is some 15.3ha in area, whilst the solar arrays would be in an area some 9.1ha in size.

A Landscape and Visual Impact Assessment (LVIA) has been submitted and considers the application site from various views. The site would be visible in views from the highest point of the Island, the Glead Stone viewpoint. The development would have significant effects on the landscape character of the application and the immediate surroundings. It is not considered that there would be significant effects at longer distances, including from transport routes and key viewpoints.

It is acknowledged that there would be significant visual effects in the immediate area. The site would be visible when looking south-west from the Glead Stone. The application site boundary, on its western side, is with the road. It will be possible to view the site from the road, particularly the southern end of the site. However, there is scope to limit the visual impact from the Glead Stone and the road. The solar arrays and associated equipment and fences would be some 170m from the Glead Stone. There is an area in between which is within the application site but outwith the development area. A condition could be attached to any permission, if granted, requiring submission of a suitable landscaping scheme for this area and the western boundary to mitigate the impact of the views from Glead Stone.

It is also agreed that there would be limited visual impact from longer distances. The settlement of Millport is some 1km from the application site at its closest point with the main road through the town, Marine Parade/Kames Bay being approx. 1.5km distant. There is woodland between the site and the town, with an undulating landform. Whilst a portion of the development may be visible in views to the north from the town, this would be at the eastern

end of the town with the majority of the site, screened by the hills and woods. It is also noted that Millport is aligned largely east to west, with the key views from the town being to the south.

The settlement of Largs is approx. 3.5km to the east of the site, whilst Fairlie is some 3.7km distant. Parts of the development would be visible from shore in those settlements. However, this would again be in the context of undulating landform and extant woodland outwith the site. From significant views, such as Haylie Brae, the development would be largely screened by vegetation on the Island and the mainland as well as being at least 4.2km distant. Part of the development may also be visible to users of the A78, the A760 and the ferry route to the Island. However, such views, particularly for road users, would be fleeting and any impact is not considered to be significant.

The application site is within the Cumbrae Special Landscape Area (SLA). The SLA covers the whole of the Island which has a variety of landscapes. The majority of the Island comprises managed farm and moorland, within which the application site is located. The range of views towards the development is considered above, and it is not considered these views would impact on the SLA other than in very close proximity. On balance the SLA would not be unacceptably impacted. The proposal takes account of local landscape features, including the landform and woodlands, and uses these to screen the site.

Objections have been raised on the basis of the Council's 2008 Landscape Character Assessment which found the landscape of Cumbrae to be 'sensitive' to development. That Assessment was prepared in respect of expansion of the settlement of Millport and relates to the area immediately surrounding the town. It is not considered the Assessment has any material weight. However, it is noted that the application site is outwith the area identified as being unsuitable for development.

Given the above, it is considered that the proposal accords with Policy 15 of the LDP and Policy 29 of NPF4 and Strategic Policy 2 and Policy 29 of the LDP and Policy 11 of NPF4 in respect of visual impact.

### Historic Environment

Policy 9: Preserving and Enhancing our Conservation Areas states that development within or adjacent to a Conservation Areas will be supported where it preserves or enhances the Conservation Area.

Policy 7 of NPF4 stated development proposals in or affecting conservation areas will only be supported where the character and appearance of the conservation area and its setting and or its setting is preserved or enhanced.

The application site is some 1.35km distant from the Millport Conservation Area ("the CA"). The CA is approx. 26.3ha in area and incorporates approx. 50% of the built-up area of the town. The character and appearance have their origins in an 18th century planned town. The old town area is around the pier, which is the original gateway to the settlement. To either side of the old town are planned streets facing predominantly south, with narrow streets running north. Later larger villas are at the western and eastern end of the Conservation Area, built to face the sea.



The development would have no direct impact on the Conservation Area. As outlined above, a portion of the development may be visible from the eastern end of town, and this is also true for the Conservation Area. However, given distances, it is not considered that it would have any significant effect on the setting of the Conservation Area. Longer views of the town from the south, where the character and appearance of the Conservation Area can be appreciated in full, the increased distances would further diminish any impact. Given the above, the proposal is considered to have no impact on the Conservation Area and therefore accords with Policy 9 of the LDP and Policy 7 of NPF4 and Policy 29 of the LDP and Policy 11 of NPF4 in terms of the historic environment.

#### Noise Impacts on Communities and Individual Dwellings

NAC Environmental Health has been consulted and has no objection. A condition could be attached to any permission so that the rated noise level from the operation of the development does not exceed background noise level at the curtilage of the nearest noise sensitive property by 5dB. Subject to such a condition it is considered the proposal accords with Strategic Policy 2 and Policy 29 of the LDP and Policy 11 of NPF4 in terms of noise and residential amenity.

#### Natural heritage/soils/water environment

Policy 16: Protection of our Designated Sites of the LDP states that support will be given to development which would not have an unacceptable adverse effect on our natural environment. Development adversely affecting Local Nature Conservation Sites will generally not be permitted unless it can be demonstrated that the overall objectives of the designation and overall integrity of the designated area would not be compromised, or any adverse effects on the integrity of the area are clearly outweighed by social environmental or economic benefits. Policy 4 of the NPF is essentially a reiteration of Policy 16 of the LDP.

Policy 22: Water Environment Quality states that generally development which leads to the deterioration of the water environment will be resisted unless it would deliver significant, environmental, or economic benefits.

Policy 3 of NPF4 states that development proposals will contribute to the enhancement of biodiversity. Policy 4 of NPF4 states that development proposal that by virtue of type, location or scale have an unacceptable impact on the natural environment will not be supported.

The application has been submitted with a Preliminary Ecological Appraisal, Extended Vegetation Survey and Hydrological Assessment. The assessments do not identify any significant adverse impacts on priority species or habitats. NatureScot was consulted and offer no comment. SEPA was consulted and do not object. Those surveys have been carried out in accordance with SEPA's previous instructions. SEPA does not consider the water environment will be adversely affected.

The Scottish Wildlife Trust objects to the proposal. The Trust considers the proposal would compromise the Barbay Hill Local Nature Conservation Site and that the hydrology of the site, on which the habitat is dependent, would be adversely impacted. They consider the proposal is contrary to Policy 16 of the LDP and Policy 3b of the NPF4.

The objection of the Scottish Wildlife Trust is noted, as are the comments of SEPA. SEPA do not consider that the hydrology of the site would be adversely affected. It is not considered that Policy 3b of NPF4 is relevant as that relates to 'national' or 'major' planning applications, and this is neither.

The LNCS is some 33.1ha in area. The application site comprises approx. 46% of the LNCS. However, the area where development takes place is some 27.5% of the LNCS. The majority of the development would be solar arrays, comprising rows of panels some 13.5m in length and some 4.5m wide. Each row would be set on eight poles and sit between 0.8m and 3m off the ground.

It is agreed that there would be an impact on the LNCS by virtue of the development. However, given the nature and scale of the development it is not considered that any impact would be significant. The panels would allow for habitats to be retained underneath and for species to access and use the site. A Construction Environment Management Plan (CEMP) and a Habitat Management Plan (HMP) could be required by condition of any permission to ensure impacts are minimised and biodiversity enhanced.

Conditions could also be attached to any permission to ensure the mitigation works in terms of flooding and drainage were carried out.

It is not considered that there would be any significant adverse impact on the LNCS, protected species or habitats, the water environment. The proposal is considered to be of a type and scale which would not have an unacceptable impact on the natural environment in this location. Subject to conditions relating to construction and habitat management, the proposal accords with Policy 16 and Policy 22 of the LDP and Policies 3 and 4 of NPF4. The proposal also accords with Policy 29 of the LDP and Policy 11 of NPF4, in terms of natural heritage, soils and the water environment.

### Traffic

A Transport & Access Statement has been submitted with the application. This states that construction traffic would be routed between the ferry slip and the site along the B899 and U36 (Inner Circle) road. Vehicles would travel around the northern portion of the U36 to avoid use of any roads closer to Millport and minimise impact on the coast road. It identifies the need for passing place and other road improvements.

It is acknowledged that there would be impacts on the road network during construction and decommissioning. However, it is possible to minimise the disruption on other road users by restricting the routing to/from site. It is not considered the operation of the site would have any impact on traffic. NAC Active Travel and Transportation was consulted and do not object to the proposal. They consider that the proposed passing places should be retained permanently. All of this could be governed by condition if permission is granted. The Council, as Roads Authority, has powers to require repairs or similar should roads be damaged by such traffic.

The installation of passing places will likely require the loss of some road verges and vegetation. In order to minimise such impacts, the details of passing places and road junction improvement could be required to be agreed by condition. Suitably located passing places with minimal ground disturbance would improve the accessibility of the road whilst retaining the rural character.

The ferry service would have to be utilised in order to bring material to site. Objections have been raised over the impact of traffic on the service. This would be a matter for any developer and the ferry operator. However, it is noted a service runs approx. every 15mins Monday to Saturday in the summer and half hourly at other times. It is not considered that any impact on the ferry service would be significant or material to this application.

Given the above, the proposal is considered to accords with Strategic Policy 2 and Policy 29 of the LDP and Policy 11 of NPF4 in terms of traffic.

#### Impact on Tourism, Recreation and Public Access

The application site is rough grassland and open moorland which in itself has limited recreational value. The western edge of the site would be adjacent to a road leading to the Glead Stone, a popular view point, and the impact on views is considered above. It is noted that the site would be visible in views below the Glead Stone to the south-east. However, the views would not be impeded, and the panorama would remain available.

The U36 road provides opportunity for walking and cycling to both the Glead Stone and as a circular route around the upper parts of the Island. The circular route would be impacted during construction and restoration phases but would remain available, with improvements as set out above, during the operation of the development. The impacts would be on the northern portion of the circular route and access to the Glead Stone would remain from the College Street end of the route during construction/restoration.

Objections have been raised on the impact of the development on tourism. It is acknowledged that visitors to the Island do so for a variety of reasons. The views from, to and within the Island will be a reason as will the recreation and public access opportunities which the Island provides. The impact on views and recreation/access is addressed above. Whilst there would be some impacts, it is not considered to be significant or, in the case of access, long term. Many views of, from and within the Island will be unaffected as will the ability to move around the Island. A condition could be attached to any permission to require landscaping on the western side of the site in order to help screen the development including fences and CCTV from the road.

The application is therefore considered to accord with Policy 20 of the LDP and Policy 11 of NPF4 in terms of tourism, recreation, and public access.

#### Aviation interests

Glasgow Prestwick Airport has been consulted and offer no objection, having reviewed the information relating to potential glare. There is therefore not considered that there would be any significant impacts on aviation interests.

The application is therefore considered to accord with Policy 29 of the LDP and Policy 11 of NPF4 in terms of aviation interests.

#### Scale of Contribution to Renewable Energy Targets

The Scottish Government has set a target of being net zero by 2045. Scotland's electricity demand as of 2021 was approx. 32,316GWh of which approx. 85% was generated through renewables. The proposal is stated to have an output capacity of up to 19MW. Whilst this

would generate an amount of renewable energy which is small in the context of the overall figures, it is considered that this would represent a significant contribution for Cumbrae and the wider North Ayrshire. The Isle of Cumbrae is identified in the LDP as having limited capacity for renewable energy which could provide larger outputs i.e. wind turbines.

The application is therefore considered to accord with Policy 29 of the LDP and Policy 11 of NPF4 in terms of contribution to renewable energy targets.

#### Providing a Net Economic Impact

The proposed development would provide jobs during the construction period and in the supply chain. Once operational there would be limited jobs, although ongoing monitoring and maintenance would be required. Direct job creation for the Island would likely be limited, although the Council has produced an economic baseline report for the Island (October 2021.) It concluded that the Island has more than double the percentage share of over 65s compared to Scotland (38% of population as opposed to 19%) and a lower proportion of working age population (53% compared to 64%). Approx. 55% of the workforce is employed in either health or tourism. As such, direct economic benefit from any construction project is likely to be limited in terms of jobs. The development would most likely provide economic benefit through the potential cheaper energy which could be of benefit to the Island or the wider energy network.

The application is therefore considered to accord with Policy 29 of the LDP and Policy 11 of NPF4 in terms of economic impact.

#### Establishing the Use of the Site for Energy Infrastructure/Decommissioning

The applicant has stated that the site would likely be decommissioned and reinstated at the end of its lifespan. It is not clear what this lifespan would be. However, any permission could be governed by condition requiring removal of the equipment and restoration of the site within a period following the site ceasing to be operational (i.e., ceasing to generate electricity).

It is noted that the site has previously been granted permission for a solar farm and subject to a condition regarding details, the proposal is considered to accord with Policy 29 of the LDP and Policy 11 of NPF4 in terms of establishing as a site for energy infrastructure and decommissioning.

#### Conclusion

Policy 1 of NPF4 states that significant weight will be given to the global climate and nature crisis. The proposal has been assessed above against the relevant policies of the LDP and NPF4. The proposal has, on balance, been considered to accord with those policies. It is acknowledged that the proposal would have impact particularly in terms of visual impact and the road network. However, it is considered that these would not be significant or can be mitigated through conditions. The proposal would contribute to the production of renewable energy and net zero targets and biodiversity can be preserved and enhanced through a Habitat Management Plan. The proposal can therefore help tackle the crises and significant weight should be given to this in any decision.

In terms of other material considerations, it is noted that the site has previous permission for a solar farm. That permission lapsed shortly before the COVID emergency period. An attempt to prolong the life of that permission through variation of conditions was refused, not because the solar farm was unacceptable in principle but because the specific changes to the conditions were unacceptable in themselves.

North Ayrshire Council's Cumbrae Island Plan approved in March 2022 provides a 10-year vision for 2032 where Cumbrae is a more sustainable and accessible island, with improved infrastructure, transport and housing. The Island would be attracting a more balanced population, enjoying a wider range of employment opportunities and activities.

The proposed development would address some of the vision set out in the plan. The Island would have a larger source of renewable energy with improved road network. The proposal is not considered to prevent any of the other aims of the plan being achieved.

Scottish Government's Carbon Neutral Islands (CNI) project is a 2021-2022 programme for government commitment aimed at supporting six islands to become carbon neutral by 2040. The definition of 'carbon neutral', in the context of this project means an island where the greenhouse gas emissions, captured as CO2 equivalent, are in balance with carbon sinks. Great Cumbrae is one of the project islands.

This project is at an early stage, with a progress report published in January 2023. This stated that for each of the islands in depth carbon audits, community climate change action plans and climate change investment strategies are to be developed. Whilst such work has not yet been carried out, the CNI states that delivery will be achieved through a mixture of existing public funding, public-private partnership and private investment.

The CNI is in such an early stage that it is not considered to carry significant weight in determining the application. However, the proposal is a private development of renewable energy development which will contribute towards renewable energy targets and as such does not appear to conflict with the aims of the CNI.

Given all of the above, the proposal is considered to accord with the LDP and NPF4 and there are no material considerations which outweigh the assessment. Planning permission is therefore recommended to be granted subject to conditions.

#### **4. Full Recommendation**

Approved subject to Conditions

**Condition**

1. That prior to the commencement of the development, a Construction Environment Management Plan (CEMP) shall be submitted to the Council, as Planning Authority, for approval. Thereafter the development shall be carried out in accordance with any CEMP as may be approved.

**Reason**

To ensure the construction of the development is carried out in a suitable manner to minimise disruption to the site and island

**Condition**

2. The prior to the commencement of the development, details of the passing places, to be constructed as passing places, including vegetation required to be removed and replanting, if required, shall be submitted to the Council, as Planning Authority, for approval. The passing places will thereafter be constructed prior to any works in the application site.

**Reason**

To ensure appropriate passing places in the interests of road safety and to reflect the rural location of the development.

**Condition**

3. No development shall take place until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Council, as Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Council, as Planning Authority in agreement with the West of Scotland Archaeology Service.

**Reason**

To ensure appropriate consideration of any archaeology given the possibility of such interest within the site.

**Condition**

4. That the development shall be carried out in accordance with the mitigation identified at 3.2 in the Hydrological Assessment, dated January 2023. Details of a bridge or bottomless culvert structure for the track crossing shall be provided to the Council, as Planning Authority, for approval prior to the commencement of that part of the development. The development will thereafter be carried out in accordance with any details as approved.

**Reason**

To ensure appropriate hydrological mitigation

**Condition**

5. Prior to the commencement of the development, a scheme of landscaping for the site, including details of ongoing maintenance/replacement as necessary shall be submitted to the Council, as Planning Authority, for approval. Any landscaping scheme as approved shall be carried out no later than the first planting/seeding season following completion of the development and prior to operation. Once operational, any landscaping shall be maintained/replaced as per any approved details.

**Reason**

To ensure appropriate landscaping of the site in the interest of visual amenity

**Condition**

6. That prior to the commencement of the development, a scheme of restoration shall be submitted to the Council, as Planning Authority, for approval.

**Reason**

To ensure and appropriate scheme of restoration in the interest of visual amenity.

**Condition**

7. That within six months of the cessation of electricity generation by the development, or within six months following cessation of construction works prior to the development becoming operational, the solar panels and all associated equipment, structures, fences, CCTV and hardstanding/roads shall be removed, and the site restored in accordance with any scheme of restoration as may have been approved.

**Reason**

To ensure the remaining habitats of the site are preserved and enhanced in the interests of biodiversity.

**Condition**

8. Prior to the operation of the site, a Habitat Management Plan (HMP), including grazing monitoring and enhancement plan shall be submitted to the Council, as Planning Authority, for approval. Any HMP as approved shall hereafter be carried out during the operation of the development.

**Reason**

To ensure appropriate management of habitats in the interests of biodiversity

**Condition**

9. The rated noise level, as defined in BS 4142:2014+A1:2019, from the operation of the proposed development must not exceed the background noise level by 5dB or more at the curtilage of the nearest noise sensitive property.

**Reason**

To ensure the development operates at an appropriate noise level in the interests of residential amenity.

**Condition**

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended (or any Order revoking or re-enacting that Order) the express approval of the Council, as Planning Authority, shall be required in respect of any development including the erection, extension, rearrangement or alteration at the site of fixed plant or machinery, buildings, structures, or private ways.

**Reason**

To retain control over development in recognition of the rural location.

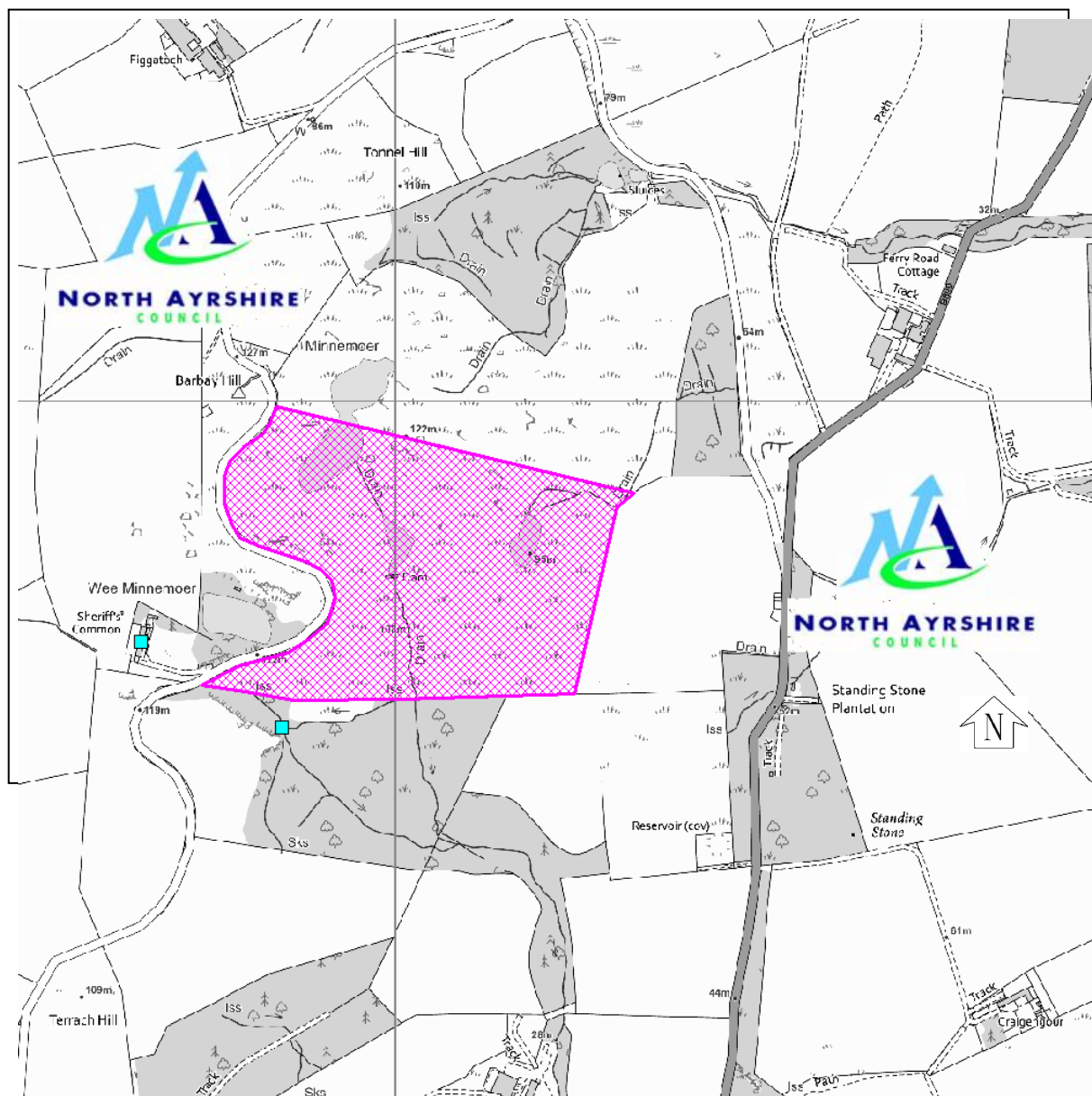
Yvonne Baulk  
Head of Service

For further information please contact Mr Iain Davies on 01294 324320.



## Appendix 1 – Location Plan

**DO NOT SCALE** Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. North Ayrshire Council Licence Number 100023393.





**Planning Committee**

---

<b>Title:</b>	<b>Notice under Sections 207 and 208 of the Town and Country Planning (Scotland) Act 1997: Site to North of Kirn Point, Lochranza, Isle of Arran</b>
<b>Purpose:</b>	To seek approval to promote a Path Diversion Order under sections 207 and 208 of The Town and County Planning (Scotland) Act 1997 to divert the Right of Way SCU123/1.
<b>Recommendation:</b>	That the Committee grants authority to proceed with promoting a Path Diversion Order for Right of Way SCU123/1 which runs through Site to North of Kirn Point, Lochranza, Isle of Arran.

---

**1. Executive Summary**

1.1 The approval of the Planning Committee is sought for the promotion of a Path Diversion Order for the Right of Way SCU123/1 which runs through Site to North of Kirn Point, Lochranza for which Planning Permission in Principle 22/00890/PPP was granted by Committee on 25<sup>th</sup> January 2023 for four residential plots and re-aligned access path.

**2. Background**

2.1 Planning Permission in Principle 22/00890/PPP was granted by the Planning Committee on 25<sup>th</sup> January 2023 for the division of an undeveloped site adjoining Newton Shore, Lochranza, Isle of Arran to create four residential house plots and re-aligned access path.

2.2 A recorded unsurfaced Public Right of Way cuts across the site c.45m from its northern edge, from Newton Road at its west side to the rocky hillside at its east side. As part of the development proposal, the developer had indicated that it was planned to re-locate the path some 10 metres further north so that it would run between the indicated Plots 1 and 2 of the development site. The path through the development site would be widened to 1m wide and surfaced with crushed stone.

2.3 The developer, John Thomson Construction Ltd., would carry out the diversion works at their cost and wishes to proceed with this part of the development approved in principle to allow the four plots to be de-lineated and marketed for sale. Further detailed planning applications for the details of the houses would then require to be submitted and approved before any further development work could proceed.

2.4 The Council's Access Officer, as part of the Active Travel and Transport service, was consulted on the application 22/00890/PPP and did not object to the proposed diversion, subject to a Path Diversion Order being made prior to any works.

2.5 Section 208(1) of The Town and Country Planning (Scotland) Act 1997, as amended,

(The Act) provides that an authority may, by order, authorise the stopping up or diversion of any footpath or bridleway if they are satisfied that it is necessary to do so in order to enable a development to be carried out in accordance with a planning permission.

Section 208(2) states that an Order may, if the planning authority are satisfied that it should do so:

- (i) provide for the creation of an alternative path as a replacement for the one stopped up or diverted;
- (ii) preserve the rights of statutory undertakers in respect of their apparatus which is under, in, on, over, along or across the path which is to be diverted; or
- (iii) require any person named in the order to pay or make contributions in respect of the cost of carrying out any such works.

2.6 The process of carrying out a Path Diversion Order involves:

- i. Notice of the proposed order being published in the Edinburgh Gazette and a local newspaper (in this case, the Arran Banner), being served on statutory undertakers and owners/occupiers of the land involved and a Site Notice being displayed at both ends of the Path;
- ii. Allowance of a 28-day period for objections/representations;
- iii. If there are no objections, the authority may confirm the order itself;
- iv. If there are objections, the Order goes to the Scottish Ministers for confirmation and an inquiry may be required; and
- v. Confirmation of the order must be advertised/notified in the same manner as notice of the proposed order

2.7 Should the committee approve the promotion of such an Order, the notification process would be carried out shortly thereafter.

### **3. Proposals**

3.1 It is therefore recommended that the Planning Committee approve the promotion of a Path Diversion Order for the right of Way SCU123/1.

3.2 If no objections are received to the Path Diversion Order, in the interest of expediency, it is recommended that the Order be confirmed under delegated powers by the Chief Planning Officer.

### **4. Implications/Socio-economic Duty**

#### **Financial**

4.1 None. Under Section 208 of The Act, the Planning Authority can require any other authority or person specified to make payments, repayments, or contributions to the cost of doing work associated with the Order. In this instance, the developer, John Thomson Construction Ltd. would be expected to pay the costs of the Path Diversion Order. The developer has confirmed the intention to carry out the works.

#### **Human Resources**

4.2 None

#### **Legal**

4.3 None

**Equality/Socio-economic**

4.4 None

**Climate Change and Carbon**

4.5 None

**Key Priorities**

4.6 The proposed Path Diversion Order would facilitate a development proposal which aligns with the Council Plan Key Priorities of 'Vibrant, welcoming and attractive places'; and 'A sustainable environment'.

**Community Wealth Building**

4.7 None

**5. Consultation**

5.1 None

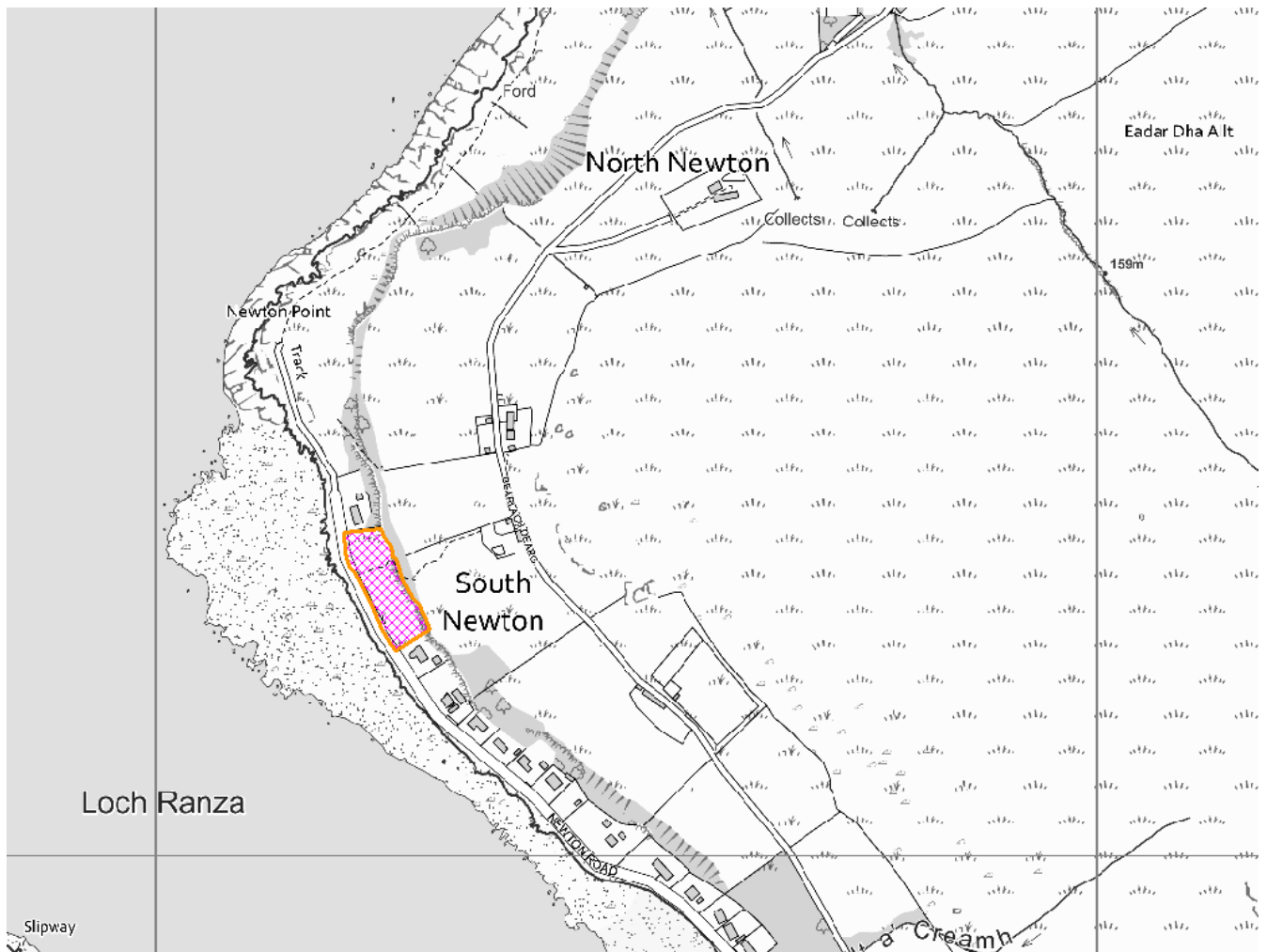
Russell McCutcheon  
Executive Director (Place)

For further information please contact **Neil McAteer, Planning Officer** on **01294 324316**.

**Background Papers**

## Appendix 1 – Location Plan

**DO NOT SCALE** Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. North Ayrshire Council Licence Number 100023393.



## NORTH AYRSHIRE COUNCIL

24th May 2023

### Planning Committee

Locality	North Coast and Cumbraes
Reference	22/00712/MSCM
Application Registered	25th October 2022
Decision Due	25th December 2022
Ward	North Coast

---

<b>Recommendation</b>	Approved subject to Conditions
-----------------------	--------------------------------

---

<b>Location</b>	Former Coal Terminal Hunterston West Kilbride Ayrshire
<b>Applicant</b>	XLCC F.A.O. Mr David Kelly
<b>Proposal</b>	Submission of details pertaining to pre-commencement conditions relating to erection of a high voltage cable manufacturing facility

---

### 1. Description

This can be ascertained by reference to the attached plans and photographs.

Planning permission in principle (ref: 22/00133/PPPM) ("the PPPM") was granted 29th June 2022 for the erection of a high voltage cable manufacturing facility, with associated factories, research and testing laboratories, offices with associated stores, transport, access, parking and landscaping with on-site generation and electrical infrastructure and cable delivery system. This permission also gave detailed permission, subject to conditions, for the construction of a 185m high extrusion tower.

This application seeks approval for the details required by the PPPM. This report also sets out the details submitted for approval in relation to the relevant conditions of the detailed permission for the tower.

A separate application has been made to vary the terms of Conditions 11 and 12 of the permission (ref: 23/00131/PP).

The PPPM has various conditions which control the development. Condition 1 limits the use of the site to the very specific development sought. Conditions 2 to 5 and 7 to 10 set out the

matters for which the approval of North Ayrshire Council, as Planning Authority, is required. Permission to vary the terms of Condition 9 (and Condition 18 relating to the tower) was granted by the Planning Committee 22nd March 2023. Condition 6 sets out works to be done but requires no further submission and as such does not form part of this application.

The required details are as follows:

*2. the siting, design and external appearance of all building and external plant or machinery, including landscaping, means of access, internal roads, external lighting, sustainable travel plan and low and zero carbon technology.*

*3. an assessment of on-site heat recovery and re-use, or a heat network infrastructure plan, or demonstrable evidence that such schemes have been explored but are not feasible for technical or economic reasons.*

*4. Construction Management Plan and Code of Practice, including details for monitoring and action against non-compliance. For the avoidance of doubt this shall include an assessment of use of the rail and port connections as a first principle and the prohibition of the use of the A78 through Fairlie, the B780/B781, the C26 and all local non-classified roads by construction vehicles and details of management of impact on the core path and cycle route network.*

*5. details of an appointed Ecological Clerk of Works (ECoW). The details shall include contact details, the scope and responsibilities of the ECoW as well as confirmation of their power to halt or otherwise stop works which are not in accordance with the mitigation measures identified in the EIA or others, as may be approved.*

*7. Dust Management Plan including the measures detailed under Mitigation Measures Adopted as Part of the Project in Chapter 13 Air Quality of the submitted EIA report dated February 2022. All documentation be verified by a suitably qualified Environmental Consultant.*

*8. an assessment of the details in terms of the rated noise level, as defined in BS4142:2014+A1:2019, from the operation of the facility. The assessment must demonstrate that the noise from the operation of the facility will not exceed the background noise level at the curtilage of any existing or consented noise sensitive property at the time of application and include details of a monitoring scheme for the first 12 months of operation of the facility.*

*9. a scheme to treat surface water arising from the or otherwise affecting the site, prepared in accordance with the principles and practices contained in 'The SuDS Manual' (CIRIA report C7453, published November 2015) and the requirements of The Water Environment (Controlled Activities) (Scotland) Regulations 2011, and certified by a suitably qualified person. Any scheme approved shall include details of proposed ground levels, finished floor levels, and pre & post development overland flows that shall demonstrate that people and property would not be put at flood risk during the designed storm event (1 in 200 return period plus an allowance for climate change and urban creep) when the capacity of the proposed infrastructure is exceeded.*



*10. That further application(s) for approval under the terms of Condition 1 shall be accompanied by a habitat survey dated not more than 1 year prior to the date of the submission of the application.*

Conditions 13 to 21 of the permission relate specifically to the tower, for which detailed permission was granted. These conditions require the following:

*13. That prior to commencement of the development of the tower, details of the external finish shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. The development will thereafter be undertaken in accordance with any details as may be approved and the tower maintained with those details unless otherwise agreed in writing with the Planning Authority.*

*14. That prior to the commencement of the development of the tower, a Dust Management Plan for the control of dust from the construction of the tower shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. Thereafter the development shall be undertaken in accordance with any Plan as may be approved.*

*15. That prior to the commencement of the development of the tower, a Construction Management Plan and Code of Practice, including details for monitoring and action against non-compliance shall be submitted to North Ayrshire Council, as Planning Authority, for approval. Thereafter the construction shall be carried out only as approved by the Plan and Code of Practice. For the avoidance of doubt this shall include an assessment of use of the rail and port connections as a first principle and the prohibition of the use of the A78 through Fairlie, the B780/B781, the C26 and all local non-classified roads by construction vehicles and details of management of impact on the core path and cycle rout network.*

*16. That prior to the commencement of the development of the tower, details of an appointed Ecological Clerk of Works (ECoW) shall be submitted to North Ayrshire Council, as Planning Authority, for approval. The details shall include contact details, the scope and responsibilities of the ECoW as well as confirmation of their power to halt or otherwise stop works which are not in accordance with the mitigation measures identified in the EIA or others, as may be approved. The development will thereafter be undertaken only with the oversight of the appointed ECoW.*

*18. That prior to the commencement of the development of the tower, that a scheme to treat surface water arising from the or otherwise affecting the site of the tower, prepared in accordance with the principles and practices contained in 'The SuDS Manual' (CIRIA report C7453, published November 2015) and the requirements of The Water Environment (Controlled Activities) (Scotland) Regulations 2011, and certified by a suitably qualified person, shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. Thereafter, the certified scheme shall be implemented prior to the completion of the development of the tower and maintained thereafter to the satisfaction of North Ayrshire Council, as Planning Authority.*

*19. Prior to the commencement of the tower, confirmation that the basement proposals are sufficiently flood resilient/resistant, including an accompanying certified flood management plan suitably addresses residual flood risk at the site form all sources of flooding, certified by a suitable qualified person, shall be submitted in writing for the written approval of North Ayrshire Council, as Planning Authority.*

*20. In the event that the works to commence the tower are not undertaken within 1 year of the date of this permission, an updated habitat survey dated not more than 1 year prior to the date of commencement shall be submitted to North Ayrshire Council, as Planning Authority, for written approval prior to the commencement.*

*21. Prior to the commencement of the development, details of omni-directional red aviation warning lights to be fitted to the tower shall be submitted to North Ayrshire Council, as Planning Authority, for approval in consultation with Prestwick Airport, Air Traffic Control and the Ministry of Defence. The lighting will thereafter be fitted and retained thereafter in accordance with any details as may be approved.*

The PPPM application was a "major" development, in terms of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. A pre-application consultation (PAC) was carried out in accordance with the Regulations in relation to the application. The proposal was also scoped in accordance with the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 on 17th December 2021 (ref: 21/01094/EIA). An EIA was submitted and considered as part of the PPPM application.

As permission in principle has been granted, and detailed permission for the tower, the principle of the development is established. The details submitted must be assessed against the requirements of each condition and where relevant the policies of the Local Development Plan adopted November 2019 (LDP) and the National Planning Framework (NPF4) adopted February 2023.

The relevant LDP policies include Strategic Policy 2: Placemaking; Policy 15: Landscape and Seascape; Policy 16: Protection of our Designated Sites; Policy 23: Flood Risk Management; Policy 27: Sustainable Transport and Active Travel; Policy 29: Energy Infrastructure Development; and Policy 31: Future Proofing for Heat Networks.

The relevant NPF4 policies include Policy 4, which states that development which affects SSSIs will be supported where the overall integrity of the area is not compromised, Policy 10, states that development in developed coastal locations will be supported where it does not result in the need for further coastal protection measures, Policy 13, which requires development to be considered in terms of sustainable travel, Policy 14, which is a reiteration of Strategic Policy 2 of the LDP, Policy 19, which requires consideration of the possibility of a heat network; Policy 22, which states that development in flood risk areas will only be supported in certain circumstances, and Policy 23, which requires developments to take account of air quality and noise impacts.

## **Relevant Development Plan Policies**

### **Strategic Policy 2 Placemaking**

Our Placemaking policy will ensure we are meeting LOIP priorities to make North Ayrshire safer and healthier by ensuring that all development contributes to making quality places. The policy also safeguards, and where possible enhances environmental quality through the avoidance of unacceptable adverse environmental or amenity impacts. We expect that all applications for planning permission meet the six qualities of successful places, contained in this policy. This is in addition to establishing the principle of development in accordance with Strategic Policy 1: Spatial Strategy. These detailed criteria are generally

not repeated in the detailed policies section of the LDP. They will apply, as appropriate, to all developments.

## Six qualities of a successful place

### Distinctive

The proposal draws upon the positive characteristics of the surrounding area including landscapes, topography, ecology, skylines, spaces and scales, street and building forms, and materials to create places with a sense of identity.

### Welcoming

The proposal considers the future users of the site and helps people to find their way around, for example, by accentuating existing landmarks to create or improve views (including sea views), locating a distinctive work of art in a notable place or making the most of gateway features to and from the development. It should also ensure that appropriate signage and lighting is used to improve safety and illuminate attractive buildings.

### Safe and Pleasant

The proposal creates attractive places by providing a sense of security, including by encouraging activity, considering crime rates, providing a clear distinction between private and public space, creating active frontages and considering the benefits of natural surveillance for streets, paths and open spaces.

The proposal creates a pleasant, positive sense of place by promoting visual quality, encouraging social and economic interaction and activity, and by considering the place before vehicle movement.

The proposal respects the amenity of existing and future users in terms of noise, privacy, sunlight/daylight, smells, vibrations, glare, traffic generation, and parking. The proposal sufficiently investigates and responds to any issues of ground instability.

### Adaptable

The proposal considers future users of the site and ensures that the design is adaptable to their needs. This includes consideration of future changes of use that may involve a mix of densities, tenures, and typologies to ensure that future diverse but compatible uses can be integrated including the provision of versatile multi-functional greenspace.

### Resource Efficient

The proposal maximises the efficient use of resources. This can be achieved by re-using or sharing existing resources and by minimising their future depletion. This includes consideration of technological and natural means such as flood drainage systems, heat networks, solar gain, renewable energy and waste recycling as well as use of green and blue networks.

### Easy to Move Around and Beyond

The proposal considers the connectedness of the site for people before the movement of motor vehicles, by prioritising sustainable and active travel choices, such as walking, cycling and public transport and ensuring layouts reflect likely desire lines, through routes and future expansions.

## Detailed Policy 15-Landscape & Seascape

### Policy 15:

#### Landscape and Seascape

We will support development that protects and/or enhances our landscape/seascape character, avoiding unacceptable adverse impacts on our designated and non-designated landscape areas and features. In particular, we will consider the following:

- a) **National Scenic Areas**  
Development that affects the North Arran National Scenic Area including the need to protect existing sport and recreation interests, will only be supported where:
  - i) the objectives of the designation and the overall integrity of the area will not be compromised; or
  - ii) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.
- b) **Special Landscape Areas**  
We will only support development which affects Special Landscape Areas where it would not have an unacceptable impact on their special character, qualities and setting.
- c) **Wild Land**  
We will only support development within Wild Land areas where any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation.
- d) **Local Landscape Features**  
Where appropriate, development should take into consideration its individual and cumulative impacts on landscape features, including:
  - i) patterns of woodlands, fields, hedgerows and trees;
  - ii) lochs, ponds, watercourses, wetlands, the coast and wider seascape;
  - iii) settlement setting, including approaches to settlements;
  - iv) the setting of green network corridors, such as important transport routes and the cycle and footpath network;
  - v) historic, natural and recreational features of interest, skylines and hill features, including important views to, from and within them.

For all development with the potential to have an impact on either Landscape Character or Landscape features (including their setting), appropriate mitigation measures should be considered as part of any planning application. Where there is potential for development to result in significant adverse landscape/visual impact, a landscape and visual impact assessment (LVIA) will be required. The Ayrshire Landscape Character Assessment (SNH, 1998) and North Ayrshire Settlement Development Strategy (Entec, 2008) provide further information on designations such as Local Landscape Character Areas and the Potential Limit of Development Expansion areas as shown on the map on page 81 and on our online proposals map. These landscape assessment documents, and any new or updated landscape assessments, will be key considerations in determining whether development proposals would be acceptable within the landscape.

Detailed Policy 16- Protection of our Designated Sites  
Policy 16:

## Protection of our Designated Sites

We will support development which would not have an unacceptable adverse effect on our valuable natural environment as defined by the following legislative and planning designations;

- a) **Nature Conservation Sites of International Importance**  
Where an assessment is unable to conclude that a development will not adversely affect the integrity of a site, development will only be permitted where there are no alternative solutions; there are imperative reasons of overriding public interest; and suitable compensatory measures are provided to ensure that the overall coherence of the Natura Network is protected.
- b) **Nature Conservation Sites of National Importance**  
Development affecting Sites of Special Scientific Interest will not be permitted unless it can be demonstrated that the overall objectives of the designation and the overall integrity of the designated area would not be compromised, or any adverse effects are clearly outweighed by social, environmental or economic benefits of national importance.
- c) **Nature Conservation Sites of Local Importance**  
Development adversely affecting Local Nature Reserves or Local Nature Conservation Sites will generally not be permitted unless it can be demonstrated the overall objectives of the designation and the overall integrity of the designated area would not be compromised, or any adverse effects are clearly outweighed by social, environmental or economic benefits of local importance.
- d) **Marine Protected Areas**  
  
Development likely to have an adverse effect on the protected features of South Arran MPA will not be supported. Proposals are also required to consult with the Clyde Marine Planning Partnership (CMPP).
- e) **Biodiversity Action Plan Habitats and Species**  
  
Development adversely affecting priority habitats or species set out in the North Ayrshire Local Biodiversity Action Plan will not be permitted unless it can be demonstrated the impacts are clearly outweighed by social or economic benefits of local importance.
- f) **Protected Species**  
Development likely to have an unacceptable adverse effect on;
  - i) **European Protected Species** (see Schedules 2 & 4 of the Habitats Regulations 1994 (as amended) for definition); Birds, Animals and Plants listed on Schedules 1, 5 and 8 (respectively) of the Wildlife and Countryside Act 1981 (as amended); or badgers, will only be permitted where the applicant can demonstrate that a species licence is likely to be granted.
  - ii) **The Scottish Biodiversity List (SBL)** of animals, plants and habitats that Scottish Ministers considered to be of principle importance for biodiversity conservation in Scotland.

Detailed Policy 23-Flood Risk Management  
Policy 23:

## Flood Risk Management

We will support development that demonstrates accordance with the Flood Risk Framework as defined in Scottish Planning Policy and shown in schedule 7, relevant flood risk management strategies and local flood risk management plans. We will also support schemes to manage flood risk, for instance through natural flood management, managed coastal realignment, wetland or green infrastructure creation.

Generally, development should avoid locations of flood risk and should not lead to a significant increase in the flood risk elsewhere. Land raising and elevated buildings will only be supported in exceptional circumstances, where it is shown to have a neutral or better impact on flood risk outside the raised area.

Development proposals should:

- o Clearly set out measures to protect against, and manage, flood risk.
- o Include sustainable urban drainage systems (SuDS) where surface water is proposed to be discharged to the water environment, in accordance with the Water Environment (Controlled Activities) (Scotland) Regulations 2011 as amended.
- o Include provision of temporary/construction phase SuDS.
- o include appropriate long-term maintenance arrangements.
- o Be supported by an appropriate flood risk assessment where at risk of flooding from any source in medium to high risk areas and for developments in low to medium risk areas identified in the risk framework (schedule 7).
- o Take account of SEPA's flood risk and land use vulnerability guidance (2018) and any relevant updates to, or replacements of this guidance.

## Detailed Policy 27

### Sustainable Transport and Active Travel

We will support development that:

- o contributes to an integrated transport network that supports long term sustainability
- o reduces inequality by improving the accessibility and connectivity of employment opportunities and local amenities
- o provides safe and convenient sustainable transport options and supports modal shift to sustainable transport and active travel.
- o reduces the need to travel or appropriately mitigates adverse impacts of significant traffic generation, road safety and air quality, including taking into account the cumulative impact.
- o takes a design-led, collaborative approach to street design to provide safe and convenient opportunities for integrated sustainable travel in the following order of priority: pedestrians, people on cycles, people using collective transport (buses, trains etc.) and people using private transport.
- o considers the potential requirements of other infrastructure providers, including designing for the potential development of district heat networks by for example incorporating access points into the transport network to allow for future pipe development or creating channels underneath the road/infrastructure to enable pipe development with minimal disruption to the networks.
- o enables the integration of transport modes and facilitates movement of freight by rail or water (in preference to road). This would include, for example, the provision of

infrastructure necessary to support positive change in transport technologies, such as charging points for electric vehicles and the safeguarding of disused railway lines with the reasonable prospect of being used as rail, tram, bus rapid transit or active travel routes.

- o considers the impact on, and seeks to reduce risk to level crossings, including those located within Ardrossan, Stevenston and Gailes.

Proposals are expected to include an indication of how new infrastructure or services are to be delivered and phased, and how and by whom any developer contributions will be made.

We will take account of:

- o the implications of development proposals on traffic, patterns of travel and road safety.
- o Significant traffic generating uses should be sited at locations that are well served by public transport, subject to parking restraint policies, and supported by measures to promote the availability of high-quality public transport services. Where this is not achievable, we may seek the provision of subsidised services until a sustainable service is achievable.
- o the potential vehicle speeds and level of infrastructure provided for the expected numbers of trips by all modes.
- o the relationship between land use and transport and particularly the capacity of the existing transport network, environmental and operational constraints, and proposed or committed transport projects.
- o committed and proposed projects for the enhancement of North Ayrshire's transport infrastructure, including improved park and ride provision.
- o specific locational needs of rural communities. We recognise that in rural areas we need to be realistic about the likely viability of public transport services and innovative solutions such as demand-responsive public transport and small scale park and ride facilities at nodes on rural bus corridors will be considered.
- o The Council's adopted Local Transport Strategy, Core Paths Plan, Town Centre Parking Strategy and parking requirements.
- o The need to mitigate and adapt to climate change with regard to the Climate Change (Scotland) Act 2009.
- o The provision of new and improved links to existing and proposed active travel routes which are integrated with the wider strategic network, including the National Walking and Cycling Network, core paths and the Ayrshire Coastal Path.  
Developments likely to generate significant additional journeys will be required to be accompanied by a Transport Assessment, Air Quality Assessment and a Travel Plan. A Transport Statement will be required for smaller scale developments that will not have a major impact on the transport network, but are still likely to have an impact at a local level on the immediate transport network.

National Development:

The National Walking and Cycling Network (NWCN) was designated as a national development within the National Planning Framework (NPF3). This is an ambitious project which aims to grow Scotland's network of paths from 6,000 to 8,000 km by 2035. Key routes in North Ayrshire which will contribute to this network are detailed below. These are being developed in partnership with Sustrans and Scottish Natural Heritage as lead organisations for the delivery of the NWCN.

These include the development of an off-road alignment for:

- o National Cycle Network (NCN) Route 73 (North) between Brodick and Corrie on the Isle of Arran
- o NCN Route 753 between Skelmorlie and Ardrossan
- o While not explicitly referenced in NPF3, support will be given to development of an off-road alignment for NCN Route 7 between Kilwinning and Kilbirnie.

## Detailed Policy 29 - Energy Infrastructure Development

### Policy 29:

#### Energy Infrastructure Development

We will support development proposals for energy infrastructure development, including wind, solar, tidal, cropping and other renewable sources, where they will contribute positively to our transition to a low carbon economy and have no unacceptable adverse environmental impacts, taking into consideration (including cumulatively) the following:

#### Environmental

- o Communities and individual dwellings - including visual impact, residential amenity, noise and shadow flicker;
- o Water quality;
- o Landscape - including avoiding unacceptable adverse impacts on our landscape designations;
- o Effects on the natural heritage - including birds;
- o Carbon rich soils including peat;
- o Impacts on the historic environment - including scheduled monuments, listed buildings and their settings.

#### Community

- o Establishing the use of the site for energy infrastructure development;
- o providing a net economic impact - including socio-economic benefits such as employment, associated business and supply chain opportunities;
- o Scale of contribution to renewable energy generation targets;
- o Public access - including impact on long distance walking and cycling routes and scenic routes identified in the National Planning Framework;
- o Impacts on tourism and recreation;
- o Specific locational opportunities for energy storage/generation.

#### Public Safety

- o Greenhouse gas emissions;
- o Aviation and defence interests and seismological recording;
- o Telecommunications and broadcasting installations - particularly ensuring that transmission links are not compromised; radio telemetry interference and below ground assets;
- o Road traffic and adjacent trunk roads;
- o Effects on hydrology, the water environment and flood risk including drinking water quality and quantity (to both the public and private water supplies);
- o Decommissioning of developments - including ancillary infrastructure, and site restoration and aftercare.



Proposals should include redundancy plans which will demonstrate how apparatus will be timeously removed as reasonably soon as the approved scheme ceases operation. There may be a requirement for financial bonds to ensure that decommissioning can be achieved. Taking into consideration the above, proposals for wind turbine developments should accord with the Spatial Framework (as mapped) and consider the current Landscape Capacity Study for Wind Farm Development in North Ayrshire. This study will be used as a point of reference for assessing all wind energy proposals including definitions of what small to large scale entails.

#### Buildings: Low and Zero Carbon Generating Technology

Proposals for all new buildings will be required to demonstrate that at least 10% of the current carbon emissions reduction set by Scottish Building Standards will be met through the installation and operation of low and zero-carbon generating technologies. A statement will be required to be submitted demonstrating compliance with this requirement. The percentage will increase at the next review of the local development plan.

This requirement will not apply to:

1. Alterations and extensions to buildings
2. Change of use or conversion of buildings
3. Ancillary buildings that stand alone and cover an area less than 50 square metres
4. Buildings which will not be heated or cooled, other than by heating provided solely for frost protection.
5. Buildings which have an intended life of less than two years.

### Detailed Policy 31 - Future Proofing for Heat Networks

#### Policy 31:

##### Future Proofing for Heat Networks

We will support proposals for the creation or enhancement of district heat networks in as many locations as possible in North Ayrshire (even where they are initially reliant on carbon-based fuels if there is potential to convert them to run on renewable or low carbon sources of heat in the future).

We will seek to identify and safeguard existing and future heat network generation and distribution infrastructure, including piperuns and pipework within, and to the curtilage of, new developments.

Proposals for development that constitute a significant heat source or substantial development\* which would not result in the creation or enhancement of district heat networks should include:

- i) provision for on-site heat recovery and re-use infrastructure; or
- ii) a heat network generation and distribution infrastructure plan (a district heating plan), taking into account the potential to connect to future heat demand sites; or
- iii) demonstrable evidence that district heating or other forms of renewable generation storage have been explored but are not feasible for technical (proximity, geography, safety etc) or economic reasons.

\* 'Substantial' developments consist of urban extensions, large regeneration areas or large development sites subject to master planning or large mixed use developments and major sites (50 residential units and above). There is, however, an element of judgment that will need to be applied here and it might be that some other locations offer significant potential for heat networks due to their local context, support from the local authority, and 'buy in' from developers.

## **2. Consultations and Representations**

Neighbour notification was carried out and the application was advertised. There have been 4 objections. The objections can be summarised as follows:

1. Cladding of the tower, which was shown at the public events, has been removed. The proposal for exposed concrete is not a satisfactory solution. An alternative finish is required.

*Response: Noted. The applicant has stated they would prefer bare concrete. However, they have also proposed painting to match Hunterston B. These options are considered below.*

2. The lack of a heat network plan and renewable energy on site is disappointing.

*Response: Noted. The requirement of Condition 3, is based on Policy 29 of the LDP. This requires an assessment of heat network potential but does not require that there must be a network. It is noted there are no other developments which could combine to produce a network. However, the potential for a network remains should Hunterston be developed further.*

3. There does not appear to be any details relating to dust, a Construction Management Plan, or how the cable would be transferred along the jetty. The proposed elevated transfer system along the jetty would be visually intrusive. Not all details have been submitted. The Chief Planning Officer stated that any future applications would contain all details.

*Response: A Construction Management Plan has been submitted and is assessed below. Cable transfer details have been submitted. The transfer system would be sited at 3m or ground level when on the jetty. The details for all the necessary conditions have been submitted. Some conditions do not require details to be agreed in advance whilst others are to subject of applications to vary, as is permitted by the Planning Acts.*

4. Noise. It is not considered the noise report is adequate. The locations of the monitoring sites in Fairlie were on the shore. Monitoring should be carried out in the upper parts of the village. There is also no noise assessment from the cable tensioner/roller pathway.

*Response: NAC Environmental Health has been consulted and has no objection to the submitted report. The whole development would have to comply with any noise requirements including the any plant to transfer the cable along the jetty.*

5. The development should not be permitted. There will be no economic benefit to the area. The product will soon be obsolete as there are better methods for producing cable.

*Response: The principle of the development has already been approved. Issues such as economic benefit were considered in the previous application. Such issues are not material to this application nor is the technology for alternative products.*

### Consultations

**Transport Scotland** - No objections.

**NAC Active Travel and Transportation** - No objections. A Traffic Management Plan (TMP) should be submitted which restricts construction vehicle movements from specific unsuitable routes i.e. the C26 and local unclassified roads, the B780/B781, and the A78 through Fairlie

*Response: The applicant has submitted a Traffic Management Plan which stipulates a route which avoids those roads. A condition could be added to any permission requiring compliance with the TMP.*

**Network Rail** - No objections.

**NAC Environmental Health** - No objections. The submitted Dust Management Plan meets the requirements of Conditions 7 and 14. The submitted acoustic assessment reports, including the updated report dated 31st March 2023, which includes recent monitoring on Cumbrae, confirm that predicted rated noise level will not exceed background noise level at the curtilage of any existing or consented noise sensitive property at the time of application. Conditions should be imposed to ensure the Dust Management Plan is carried out and the development operates in accordance with the noise levels.

*Response: Noted. Such conditions could be added to any permission.*

**NAC Flooding** - It was initially noted that Conditions 9 and 18 could not be met due to the proposed Finished Floor Levels (FFLs). However, it is now noted that Conditions 9 and 18 have been varied by the Planning Committee to remove reference to a specific FFL. Some anomalies in the submitted reports are pointed out. Further information was also requested about specific parts of the development.

*Response: Noted. NAC Flooding comments have been responded to by the applicant as follows:*

The references to "very low risk" instead of "no risk" and the Society of Chief Officers of Transportation in Scotland instead of SEPA are noted. The proposed mobile water storage tank would be a lorry, with dedicated parking within the site. Details of the automatically closable outfall, to reduce risk of firefighting water entering drainage system, has been provided as has a route for the culvert diversion. Details of flow routes for flooding run off have also been provided.

NAC Flooding has confirmed that they have no objections to the overall scheme.

**Fairlie Community Council (FCC)** - FCC consider the development will make the village an undesirable place to live. The submission of the planning permission in principle and now a full application has meant the proposal has been 'salami sliced' and the Committee has not been able to assess the application in its entirety. Fairlie village existed before the port,

which was built to sustain the Ravenscraig steelworks. The steelworks no longer exist and impacts from the port have decreased as the port no longer receives coal imports. The incident of drillships breaking free from the port show that the port operator is not fit for purpose. The applicant has no experience of carrying out such a development.

No details of the structure to convey the cable from land to the jetty and vessel have been provided. The proposed use of rail transport is positive. However, the use of diesel engines has caused noise disturbance. The line into the yard should be electrified. New infrastructure is required to replace the road route through Fairlie.

The development will negatively impact on leisure and water and air quality. The FCC does not believe that the operation of the development can meet an acceptable noise level. The FCC has submitted its own appraisal by a noise consultancy. This disagrees with the report submitted by the applicant. Reference is made to previous permissions, where FCC disagreed with the noise assessments and a valid survey of background noise levels is considered to be required. They consider that the noise will be above background levels. There will also be problems with vibration. The cable laying vessel and use of the port will also cause noise nuisance.

The proposed cable is not as environmentally friendly as other technologies, it is not recyclable and requires high quantities of energy to produce. The cost of setting up the development is prohibitive and the return on investment is uncertain.

*Response: The Planning Acts allow for the submission of applications for permission in principle. It should be noted that the permission granted by the Planning Committee was for the principle of the factory but full permission for the tower. Given the current permission, the principle of the development is not a material consideration for this application. The Hunterston port and yard exist and are established industrial sites. The operator of the port is not a material consideration for this application nor the background of the applicant.*

*There are no toxic air or sea discharges proposed by the development. The effect on air quality has been considered. The applicant has confirmed that no odours etc will be emitted by the site when in operation. NAC Environmental Health has been consulted and has no objections. Noise and other potential amenity impacts are considered further below. The railway exists and the use of diesel trains or otherwise is not a material consideration for this application. It is noted the railway is used for transportation of material from Hunterston B.*

*The port exists and no planning permission is required for vessels using the port. The type of cable to be produced or the capital required to set up the development or the potential return are not material planning considerations.*

**Cumrae Community Council (CCC )** - CCC has concerns about the submitted noise report and particularly the perceived lack of information relating to Cumrae. In the experience of residents looking towards Hunterston, lighter coloured structures are considered to stand out. A bare concrete tower would make the tower more visible.

**Response: Noted. The concerns regarding noise monitoring on Cumrae were put to the applicant. Further monitoring was undertaken on Cumrae and an updated report dated 31st March 2023 submitted. This has been assessed by NAC Environmental Health as set out above. In terms of colour, the concerns over bare**

**concrete have also been put to the applicant. They are proposing either bare concrete or paint to match Hunterston B. This is analysed further below.**

**West Kilbride Community Council (WKCC) and Largs Community Council (LCC) were also consulted but no comments have been received.**

### **3. Analysis**

All planning applications require to be assessed against the relevant policies of the North Ayrshire Local Development Plan (LDP) adopted November 2019, NPF4 adopted February 2023 and all other material considerations.

Planning permission has already been granted in full for the tower and in principle for the rest of the factory. The principle of the development is not therefore a material consideration. This application requires the details submitted in respect of each application to be assessed.

*2. the siting, design and external appearance of all building and external plant or machinery, including landscaping, means of access, internal roads, external lighting, sustainable travel plan and low and zero carbon technology.*

The proposed factory buildings would be utilitarian in design and external appearance as may be expected for such a development. They would be up to approx. 27m in height and largely screened from the south, east and north by the existing topography and woodland. They would be viewed in the context of the permitted tower and the wider industrial area including the construction yard and nuclear power stations. The buildings would be finished in grey cladding. The siting, design and external appearance of the buildings are considered to be acceptable.

The external plant would comprise a system to transport cables from the factory along the jetty. This would be a cable pathway exiting the factory at a height of approx. 13.4m dropping to 10m in height to cross the railway line and then to 3m in height before the final section being partially within an existing service trench along the jetty. A moveable loading arch and loading arms would be sited on the jetty to aid loading onto any vessel. The higher parts of the plant would be viewed in the context of the factory buildings. It is noted the height would allow the railway to continue to be utilised and that the plant would drop down to 3m and then ground level on the jetty where it could be more visible.

There would be landscaping around the edges of the factory site including grass and ornamental planting, with trees in the car parks and SUDs area. The scope for landscaping is limited given the location and scale of the development. However, the proposed landscaping is considered to be acceptable, and a condition could be attached to any permission requiring it to be carried out and any planting which dies or otherwise fails to be replanted.

Vehicular access would be through the existing access from the A78 at the Southannan Roundabout. The access into the factory would be at the north-western corner and utilise an existing estate road which runs along the northern and eastern sides of the proposed factory. There would be a car park for the office staff at the north-western corner with the main service yard being in the north-eastern corner of the site. Parking for production staff

would be at the south-eastern corner. There would be a cycle route from the main access to the production parking area and a primary pedestrian route through the whole site connecting the access, car parks and buildings. There would emergency vehicular access at the southern and eastern boundary.

External lighting would be provided by a mixture of LED lights mounted on the walls of the buildings at 10m in height or pole mounted at 8m in height. Along the cable transportation route, 3m high pole mounted gantry lights would be installed. As above, the main factory area would be largely screened in views from the east, south and north given the topography and woodland. Views from Cumbrae to the west would be from a minimum of 2.5km. The gantry lighting for the cable transportation route would be more visible, particularly on the jetty. However, given the height and purpose of the lighting it is considered to be appropriate for the development. Lighting would be motion sensitive and timed. NAC Environmental Health has been consulted and has no comments in respect of lighting.

A workplace travel plan has been submitted. This sets out a commitment to support sustainable and active travel. It aims to encourage staff to switch to more sustainable travel to work and minimise the impact of the development on the road network and environment during the operation of the factory through vehicle movements. It provides a methodology for carrying out baseline studies following operation and monitoring. NAC Active Travel and Transportation has been consulted and has no comments in respect of this travel plan. A condition could be added to any permission requiring the travel plan to be implemented.

*3. an assessment of on-site heat recovery and re-use, or a heat network infrastructure plan, or demonstrable evidence that such schemes have been explored but are not feasible for technical or economic reasons.*

An assessment of the potential for low and zero carbon renewable energy has been submitted. It is not considered that renewable energy including solar power, or ground or air source heat pumps would be viable within the site given the orientation, maintenance costs or the amount of power which could be gained. Direct connection to a solar array outwith the site is being explored but would not form part of this application. LED lighting is proposed to reduce energy usage. A local heat network for the wider Hunterston area has also been considered but as this development would be the first, it is considered there is no scope at present. The applicant states they would explore a network if one became available. The details provided and the reasons for discounting specific energy types is noted. The development would have to be granted a Building Warrant and would have to meet the requirements of Building Regulations in terms of reduction of emissions.

The details submitted in respect of Condition 2 and 3 are considered to accord with Strategic Policy 2; Policy 15; Policy 27; Policy 29 and Policy 31 of the LDP and Policy 14 and Policy 19 of NPF4.

*4. Construction Management Plan and Code of Practice, including details for monitoring and action against non-compliance. For the avoidance of doubt this shall include an assessment of use of the rail and port connections as a first principle and the prohibition of the use of the A78 through Fairlie, the B780/B781, the C26 and all local non-classified roads by construction vehicles and details of management of impact on the core path and cycle rout network.*

Condition 15 is essentially a reiteration of the above condition but relates directly to the tower.

A Construction Management Plan (CMP) and Code of Practice has been submitted. This sets out how the development will be undertaken in order to minimise disruption through the construction period. The CMP confirms that the rail and port connection will be considered for each package of works. Any road traffic will avoid the specified roads. Details of how this would be managed and reported are provided including the training schedule for each level of management. Condition 15 requires the tower to be built in accordance with any management plan and a condition could be attached to any permission for the factory to also be built in accordance with the CMP. The details submitted in respect of Conditions 4 and 15 are considered to accord with Strategic Policy 2, Policy 27 of the LDP and Policy 14 of NPF4.

*5. details of an appointed Ecological Clerk of Works (ECoW). The details shall include contact details, the scope and responsibilities of the ECoW as well as confirmation of their power to halt or otherwise stop works which are not in accordance with the mitigation measures identified in the EIA or others, as may be approved.*

Condition 16 is essentially a reiteration of the above condition but relates directly to the tower.

Details of an appointed ECoW have been submitted. This includes the detail of the person with overall responsibility and the details and qualification of the appointed team. The scope and responsibilities, including power to stop works, are set out. Condition 16 requires the tower to be built only with the oversight of the ECoW and a condition could be added to any permission for the factory to also be built in accordance with this requirement. These details are considered to be acceptable in terms of Policy 16 of the LDP and Policy 4 of NPF4.

*7. Dust Management Plan including the measures detailed under Mitigation Measures Adopted as Part of the Project in Chapter 13 Air Quality of the submitted EIA report dated February 2022. All documentation be verified by a suitably qualified Environmental Consultant.*

Condition 14 is essentially a reiteration of the above condition but relates directly to the tower.

The submitted CMP includes a Dust Management Plan which relates to both the factory and the tower. NAC Environmental Health has been consulted on the plan and has no objection. Condition 14 requires the tower to be built in accordance with any management plan and a condition could be added to any permission for the factory to also be built in accordance with this plan. The details submitted in respect of Conditions 7 and 14 are considered to accord with Strategic Policy 2: Placemaking of the LDP and Policy 14 and Policy 23 of NPF4.

*8. an assessment of the details in terms of the rated noise level, as defined in BS4142:2014+A1:2019, from the operation of the facility. The assessment must demonstrate that the noise from the operation of the facility will not exceed the background noise level at the curtilage of any existing or consented noise sensitive property at the time of application and include details of a monitoring scheme for the first 12 months of operation of the facility.*

An assessment of the rated noise level has been submitted. FCC's objection to the assessment is noted. However, the submitted report has been assessed by NAC Environmental Health and has no objection. The assessment demonstrates that the noise from the operation will not exceed the background noise level at the curtilage of a noise sensitive property. A scheme of monitoring could be a condition of any permission. An assessment in respect of the operation of the tower was already approved under Condition 17 of permission 22/00133/PPM. A condition could be added to any permission for the factory to ensure that the development operates at a level which does not exceed the background noise level. Subject to such a condition, the details submitted in respect of Condition 8 are considered to accord with Strategic Policy 2 of the LDP and Policy 14 and Policy 23 of NPF4.

*9. a scheme to treat surface water arising from the or otherwise affecting the site, prepared in accordance with the principles and practices contained in 'The SuDS Manual' (CIRIA report C7453, published November 2015) and the requirements of The Water Environment (Controlled Activities) (Scotland) Regulations 2011, and certified by a suitably qualified person. Any scheme approved shall include details of proposed ground levels, finished floor levels, and pre & post development overland flows that shall demonstrate that people and property would not be put at flood risk during the designed storm event (1 in 200 return period plus an allowance for climate change and urban creep) when the capacity of the proposed infrastructure is exceeded.*

Condition 18 is essentially a reiteration of the above condition but relates directly to the tower. Condition 19 also relates to the flooding at the tower and requires confirmation that the basement is sufficiently flood resilient/resistant.

A scheme to treat surface water and drainage details have been provided. The information submitted demonstrates that any flood risk would be within the application site itself. Details of how to mitigate such risk within the site have been provided. No external people or property would be at risk during a storm event. No further coastal protection measures are required. NAC Flooding has been consulted and offer no objection. Condition 18 requires the tower to be built in accordance with any details as may be approved and a condition could be added to any permission for the factory to also be built in accordance with these details. The details submitted in respect of Conditions 9, 18 and 19 are considered to accord with Strategic Policy 2: Placemaking and Policy 23: Flood Risk Management of the LDP and Policy 10 Policy 14 and Policy 22 of NPF4.

*10. That further application(s) for approval under the terms of Condition 1 shall be accompanied by a habitat survey dated not more than 1 year prior to the date of the submission of the application.*

Condition 20 is a reiteration of the above condition but requires an updated survey if work on the tower does not commence within 1 year of the permission i.e. before June 2023.

A habitat survey dated September 2022 has been submitted. This confirms that the site has habitats of low-moderate ecological importance being a former coal yard primarily bare ground. No protected species were identified on site and there is little scope for the use of the site by such species. The submission of the survey meets the requirements of Conditions 10 and 20 and accords with Policy 16 of the LDP and Policy 4 of NPF4.



The following conditions relate to the Tower only and have no equivalent in relation to the factory.

*13. The prior to commencement of the development of the tower, details of the external finish shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. The development will thereafter be undertaken in accordance with any details as may be approved and the tower maintained with those details unless otherwise agreed in writing with the Planning Authority.*

The applicant has submitted two proposals for the external finish of the tower. The original submission with this application was for the tower to be bare concrete. This was proposed as they considered that the initially considered cladding was not viable. Following comments from the public and CCC, the applicant has submitted a second proposal of painting the tower to match Hunterston B power station. This would be a matt blue grey colour RAL 7031. The applicant states that they would prefer not to paint the tower due to a wish to avoid introducing paint particles in the marine environment.

The applicant's comments in respect of painting are noted. However, it is considered that a bare concrete finish may make the development more prominent. CCC's comments about the Hunterston power stations and the lighter colours being more noticeable are noted. It is considered that the tower painted to match Hunterston B would present a more recessive building and be more in keeping with the area. It is therefore recommended that the tower be painted. The information the applicant has provided in respect of paint states that such particles are significantly enhanced by erosion on coastal structures, boats and ships. Land-based sources of paint include deteriorating coatings on buildings. The tower would be some 400m from the shore and whilst the painting would constitute a large undertaking, it is considered that the height and mass of the tower require it to be painted to mitigate the visual impact. The condition already requires any finish to be maintained. Properly maintained painting will ensure the finish does not impact on the marine environment.

*21. Prior to the commencement of the development, details of omni-directional red aviation warning lights to be fitted to the tower shall be submitted to North Ayrshire Council, as Planning Authority, for approval in consultation with Prestwick Airport Air Traffic Control and the Ministry of Defence. The lighting will thereafter be fitted and retained thereafter in accordance with any details as may be approved.*

Details of the proposed lighting has been submitted. This is currently being reviewed by Prestwick Airport and the MOD. It is recommended that any lighting agreed by those bodies is accepted by the Council.

Given all of the above, the proposal accords with the relevant policies of the LDP and NPF4.

Accordingly, the application in respect of the factory should be approved subject to the conditions referred to in this report. The details submitted in respect of the tower i.e. Conditions 13, 14, 15, 16, 18, 19, 20 and 21, should be accepted as set out above.

#### **4. Full Recommendation**

Approved subject to Conditions

#### **Reasons for Decision**

**Condition**

1. The development shall be undertaken only in accordance with the approved Dust Management Plan.

**Reason**

To ensure proper management of dust throughout the construction period.

**Condition**

2. The development shall be carried out only in accordance with the approved Construction Management Plan and Code of Practice.

**Reason**

To ensure proper management of the construction process, including impact on the road network

**Condition**

3. The development shall be carried out only with oversight of the appointed Ecological Clerk of Works (ECoW) with the responsibilities and powers as approved.

**Reason**

To ensure proper oversight during the construction process

**Condition**

4. The development shall be carried out only in accordance with the approved drainage details.

**Reason**

To ensure the proper treatment of surface water.

**Condition**

5. That the landscaping approved shall be carried out in the first planting season following the operation of the factory or erection of the buildings whichever is soonest. Any landscaping which is removed, dies, becomes diseased or otherwise fails shall be replaced within 5 years of planting.

**Reason**

To ensure appropriate landscaping in the interest of the visual amenity of the area.

**Condition**

6. The rated noise level, as defined in `BS4142:2014+A1:2019, from the operation of the development must not exceed the background noise level at the curtilage of any existing or consented noise sensitive property at the time of application.

**Reason**

To ensure the operation of the development does not cause undue noise disturbance or sterilise the wider area for further development.

**Condition**

7. The operation of the development shall be carried out only in accordance with the approved sustainable travel plan.

**Reason**

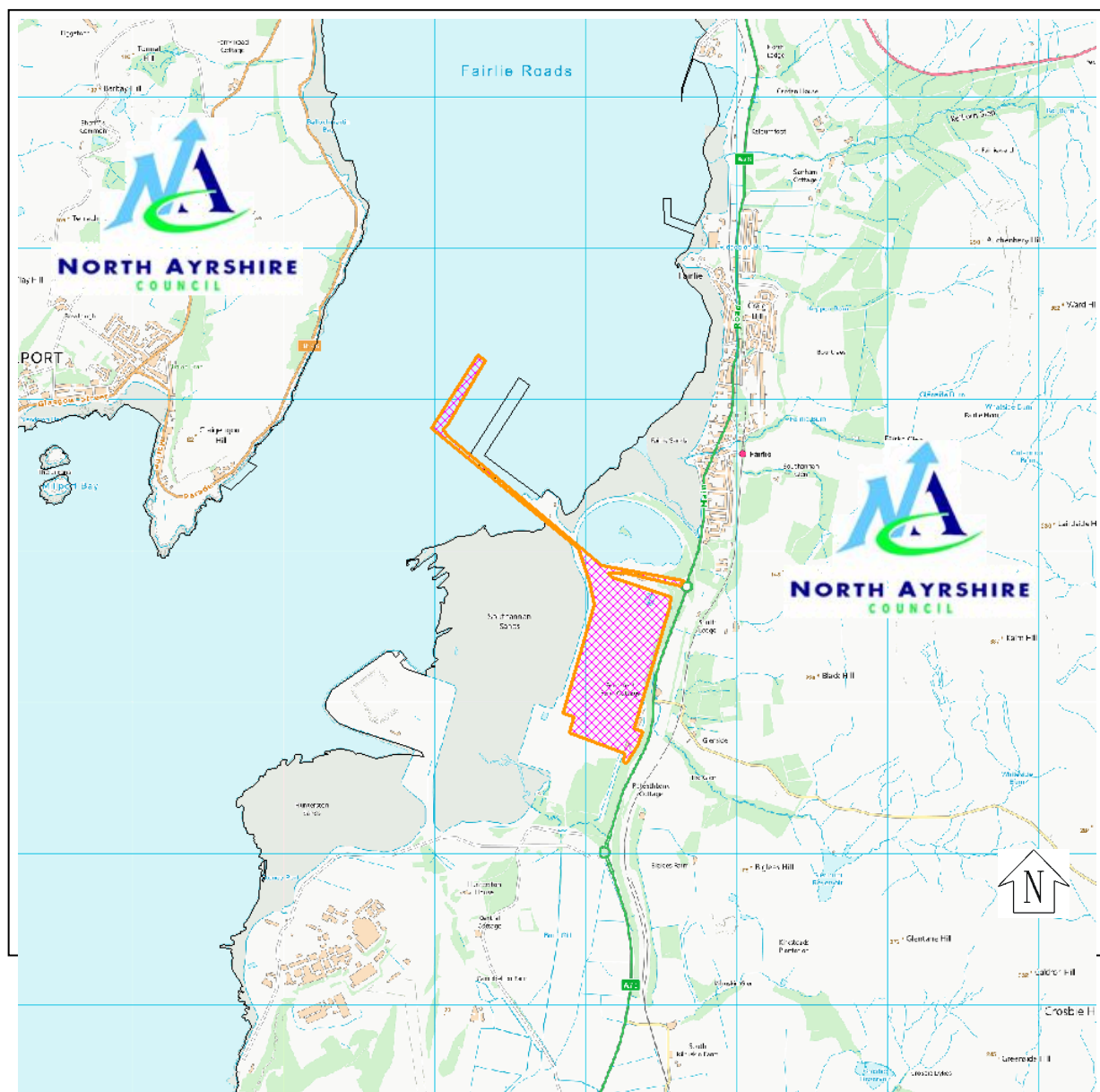
To ensure to minimise the impact of the operation of the development on the road network.

Yvonne Baulk  
Head of Service

For further information please contact Mr Iain Davies on 01294 324320.

## Appendix 1 – Location Plan

**DO NOT SCALE** Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. North Ayrshire Council Licence Number 100023393.



## NORTH AYRSHIRE COUNCIL

24th May 2023

### Planning Committee

Locality	North Coast and Cumbraes
Reference	23/00131/PP
Application Registered	22nd February 2023
Decision Due	22nd April 2023
Ward	North Coast

---

<b>Recommendation</b>	Approved subject to Conditions
-----------------------	--------------------------------

---

<b>Location</b>	Former Coal Terminal Hunterston West Kilbride Ayrshire
<b>Applicant</b>	XLCC F.A.O. Mr Alan Mathers
<b>Proposal</b>	Variation of condition 11 of planning permission N/22/00133/PPPM relating to the construction of a high voltage sub-sea cable manufacturing facility

---

### 1. Description

This can be ascertained by reference to the attached plans and photographs.

Planning permission is sought to vary Condition 11 of permission 22/00133/PPPM. That permission granted planning permission in principle for the erection of a high voltage cable manufacturing facility, including detailed planning permission for the construction of a 185m high extrusion tower with associated factories, research and testing laboratories, offices with associated stores, transport, access, parking and landscaping with on-site generation and electrical infrastructure and cable delivery system.

Condition 11 of the permission currently states,

*Prior to commencement of the development of the tower, details of a financial bond to be secured with the land owner for the removal of the tower in the event of redundancy shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. Any such bond shall be retained through the life of the development with confirmation to be provided to North Ayrshire Council, as Planning Authority, on a yearly basis following completion of the tower.*

The reason Condition 11 was imposed is as follows,

*To ensure steps are in place to remove the tower should the site become redundant, in the interest of visual amenity, and in recognition of the landowner being ultimately responsible for compliance with any conditions.*

This application seeks to change the wording to read,

*Prior to commencement of the works above ground level of development of the tower, details of a financial bond to be secured with the landowner for the removal of the tower in the event of redundancy shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. Any such bond shall be retained through the life of the development with confirmation to be provided to North Ayrshire Council, as Planning Authority, on a yearly basis following completion of the tower.*

The use of the site is restricted by condition to the construction, repair and decommissioning of large marine related structures. This is further restricted to oil rigs, platforms and similar structures that have served the oil and gas and offshore renewable industries. It is not proposed to change this restriction.

The application also originally sought to vary Condition 12 to lengthen the time before a redundant tower should be removed. This part of the application was withdrawn by the applicant, following an indication that it would be unlikely to be recommended to the Planning Committee for approval.

An application to vary Conditions 11 and 12 (ref: 22/00759/PP) was withdrawn in February 2023 following advice that it was unlikely to be supported. That application sought to vary the wording of Condition 11 to change reference from a financial bond to a binding agreement as well as extend the time period in Condition 12.

The site is some 51ha in area, including existing access roads and jetty. The site is a former coal yard, which has been vacant since 2016. The development would make use of an existing access and the existing jetty and port. The site is identified in the Local Development Plan (LDP) as part of the Hunterston Strategic Development Area and suitable for business and industrial development. The Southannan Sands Site of Special Scientific Interest ("the SSSI") is some 85m to the west. The Hunterston House Tree Preservation Order ("the TPO") runs along the eastern boundary of the site.

The relevant policy of the Local Development Plan adopted November 2019 (LDP) is considered to be Strategic Policy 2: Placemaking; and Policy 15: Landscape and Seascape.

National Planning Policy 4 (NPF4) was adopted 13th February 2023. NPF4 identifies Hunterston as a Strategic Asset. NPF4 is considered to be a material consideration for this application. The relevant policy considered to be Policy 14. The Scottish Government's Planning Circular 4/1998 sets out their policy on the use of planning conditions.

## **Relevant Development Plan Policies**

### **Strategic Policy 2**

Our Placemaking policy will ensure we are meeting LOIP priorities to make North Ayrshire safer and healthier by ensuring that all development contributes to making quality places. The policy also safeguards, and where possible enhances environmental quality through the avoidance of unacceptable adverse environmental or amenity impacts. We expect that all applications for planning permission meet the six qualities of successful places, contained in this policy. This is in addition to establishing the principle of development in accordance with Strategic Policy 1: Spatial Strategy. These detailed criteria are generally not repeated in the detailed policies section of the LDP. They will apply, as appropriate, to all developments.

## Six qualities of a successful place

### Distinctive

The proposal draws upon the positive characteristics of the surrounding area including landscapes, topography, ecology, skylines, spaces and scales, street and building forms, and materials to create places with a sense of identity.

### Welcoming

The proposal considers the future users of the site and helps people to find their way around, for example, by accentuating existing landmarks to create or improve views (including sea views), locating a distinctive work of art in a notable place or making the most of gateway features to and from the development. It should also ensure that appropriate signage and lighting is used to improve safety and illuminate attractive buildings.

### Safe and Pleasant

The proposal creates attractive places by providing a sense of security, including by encouraging activity, considering crime rates, providing a clear distinction between private and public space, creating active frontages and considering the benefits of natural surveillance for streets, paths and open spaces.

The proposal creates a pleasant, positive sense of place by promoting visual quality, encouraging social and economic interaction and activity, and by considering the place before vehicle movement.

The proposal respects the amenity of existing and future users in terms of noise, privacy, sunlight/daylight, smells, vibrations, glare, traffic generation, and parking. The proposal sufficiently investigates and responds to any issues of ground instability.

### Adaptable

The proposal considers future users of the site and ensures that the design is adaptable to their needs. This includes consideration of future changes of use that may involve a mix of densities, tenures, and typologies to ensure that future diverse but compatible uses can be integrated including the provision of versatile multi-functional greenspace.

### Resource Efficient

The proposal maximises the efficient use of resources. This can be achieved by re-using or sharing existing resources and by minimising their future depletion. This includes consideration of technological and natural means such as flood drainage systems, heat networks, solar gain, renewable energy and waste recycling as well as use of green and blue networks.

### Easy to Move Around and Beyond

The proposal considers the connectedness of the site for people before the movement of motor vehicles, by prioritising sustainable and active travel choices, such as walking, cycling

and public transport and ensuring layouts reflect likely desire lines, through routes and future expansions.

## Detailed Policy 15-Landscape & Seascape

### Landscape and Seascape

We will support development that protects and/or enhances our landscape/seascape character, avoiding unacceptable adverse impacts on our designated and non-designated landscape areas and features. In particular, we will consider the following:

- a) **National Scenic Areas**  
Development that affects the North Arran National Scenic Area including the need to protect existing sport and recreation interests, will only be supported where:
  - i) the objectives of the designation and the overall integrity of the area will not be compromised; or
  - ii) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.
- b) **Special Landscape Areas**  
We will only support development which affects Special Landscape Areas where it would not have an unacceptable impact on their special character, qualities and setting.
- c) **Wild Land**  
We will only support development within Wild Land areas where any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation.
- d) **Local Landscape Features**  
Where appropriate, development should take into consideration its individual and cumulative impacts on landscape features, including:
  - i) patterns of woodlands, fields, hedgerows and trees;
  - ii) lochs, ponds, watercourses, wetlands, the coast and wider seascape;
  - iii) settlement setting, including approaches to settlements;
  - iv) the setting of green network corridors, such as important transport routes and the cycle and footpath network;
  - v) historic, natural and recreational features of interest, skylines and hill features, including important views to, from and within them.

For all development with the potential to have an impact on either Landscape Character or Landscape features (including their setting), appropriate mitigation measures should be considered as part of any planning application. Where there is potential for development to result in significant adverse landscape/visual impact, a landscape and visual impact assessment (LVIA) will be required. The Ayrshire Landscape Character Assessment (SNH, 1998) and North Ayrshire Settlement Development Strategy (Entec, 2008) provide further information on designations such as Local Landscape Character Areas and the Potential Limit of Development Expansion areas as shown on the map on page 81 and on our online proposals map. These landscape assessment documents, and any new or updated



landscape assessments, will be key considerations in determining whether development proposals would be acceptable within the landscape.

## **2. Consultations and Representations**

The application was subject to statutory neighbour notification procedures. There have been seven objections received, including objections from Fairlie Community Council which can be summarised as follows;

1. The wording of Condition 11 should not change as it would risk the local area being blighted by the tower which will dominate the landscape. The bond is required to ensure the tower does not become an eyesore should it become redundant. The wording should remain the same to ensure the tower is not a permanent blot on the landscape. Works below ground level will still be visible.

*Response: The proposed wording is considered fully below. However, it is noted that the proposed working would prevent any works above ground level, unless and until details of a bond are provided. This means the changes to Condition 11 would not put the area at risk of a redundant tower. It is not considered that works below ground level would be readily visible outwith the site and this is considered further below.*

2. A bond must be required. Who would be liable to comply with the condition without a bond?

*Response: Agreed. A bond would still be required by the terms of the varied condition. Ultimately the landowner would be responsible for complying with any breaches of planning control on their land.*

3. Condition 12 should remain the same as the time scales are appropriate to protect the area in the event of the tower becoming redundant.

*Response: Agreed. Concerns regarding changes to Condition 12 were communicated to the applicant and that part of the application has now been withdrawn.*

4. Any development of the site will have an impact on wildlife and residents.

*Response: Permission has already been granted for the development and such factors were considered in the granting of that permission. This application relates specifically to a condition and must be assessed in that context only.*

5. The applicant should not be allowed to continue to make piecemeal applications. If it were considered in full it would be refused.

*Response: The original application was for permission in principle for the factory and full permission for the tower. The other application is to provide details required by that permission. The Planning Acts allow the submission of such applications and to vary conditions.*

6. Fairlie Community Council do not consider the landowner to have the appetite for any risk to them. Why were the community not consulted prior to the submission of the application.

*Response: Opinions on the character or intentions of the landowner are not relevant material considerations. Under planning legislation, the landowner would be ultimately responsible for any breaches of planning control on their land. This application seeks to vary a condition and no prior consultation with the public is required.*

### **3. Analysis**

Planning permission in principle for the use of the land as a cable factory and detailed permission for the construction of the tower has been granted. The principle of the development is therefore established. The application considers only whether or not the revised Condition 11 would accord with the LDP, NPF4, Scottish Government advice and any other material considerations.

Strategic Policy 2 of the LDP sets out the six qualities of a successful place. The relevant quality is 'distinctive' which requires development to consider the local landscape. Policy 14 of NPF4 is essentially a reiteration of Strategic Policy 2.

Policy 15 of the LDP states that support will be given the development that avoids unacceptable adverse impacts on our landscape areas. The revised wording of Condition 11 would allow works to commence at ground level and below. This would essentially allow the foundations and basement level of the tower to be commenced.

The reason Condition 11 was imposed was to ensure steps are in place to remove the tower should the site become redundant, in the interest of visual amenity, and in recognition of the landowner being ultimately responsible for compliance with any conditions.

The tower would be some 1450sqm in area. It would be sited some 440m north of the southern boundary of the site and 75m west of the eastern boundary of the site. It would be 25m wide, west to east, and 58m in length, north to south. It would be approx. 1km south of the settlement of Fairlie, as identified by the LDP. The site of the tower is within an existing industrial yard. The site of the tower is surrounded to the south, east and north by trees including the Hunterston House Tree Preservation Order (TPO). It would be approx. 2.8km from Cumbrae to the west. Permission in principle has been granted for the factory buildings which would surround the towers. Those buildings are expected to be approx. 25-30m in height.

Given all of the above, it is considered allowing the works up to ground level to commence without a bond would have no impact on visual amenity or the wider landscape. As such the amendment to the condition would accord with Strategic Policy 2 and Policy 15 of the LDP and Policy 14 of NPF4.

Planning Circular 4/1998 states that planning conditions should only be imposed where they are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise, and reasonable in all other respects. It is considered that the amended condition would remain relevant to planning, relevant to the development, enforceable and precise. The condition would remain necessary in respect of the tower i.e. the removal of the tower in the case of redundancy, being a structure visible in public realm. The condition

would also remain reasonable in that it would allow works which will not have an adverse impact on visual amenity.

Planning permission should therefore be granted for the variation of Condition 11 as set out below.

#### **4. Full Recommendation**

Approved subject to Conditions

#### **Reasons for Decision**

##### **Condition**

1. That the permission is for a high voltage cable manufacturing facility with associated factories, research and testing laboratories, offices with associated stores, transport, access, parking and landscaping with on-site generation and electrical infrastructure and cable delivery system only and planning permission would be required for any other use within Class 5 of the Town and Country Planning (General Permitted Development) (Scotland) Order, as amended.

##### **Reason**

In recognition of the special justification for the tower and to retain control over the site and re-assess the need for the tower in the event of a different operation.

##### **Condition**

2. That the approval of North Ayrshire Council, as Planning Authority, with regard to the siting, design and external appearance of all building and external plant or machinery, including landscaping, means of access, internal roads, external lighting, sustainable travel plan and low and zero carbon technology, shall be obtained before the development permitted in principle is commenced.

##### **Reason**

In order that these matters can be considered in detail.

##### **Condition**

3. That further application(s) for approval under the terms of Condition 1 shall be accompanied by an assessment of on-site heat recovery and re-use, or a heat network infrastructure plan, or demonstrable evidence that such schemes have been explored but are not feasible for technical or economic reasons.

##### **Reason**

In order that the future proofing of the site for heat networks is properly considered as required by Policy 31 of the LDP.

##### **Condition**

4. That further application(s) for approval under the terms of Condition 1 shall be accompanied by a Construction Management Plan and Code of Practice, including details for monitoring and action against non-compliance. For the avoidance of doubt this shall include an assessment of use of the rail and port connections as a first principle and the prohibition of the use of the A78 through Fairlie, the B780/B781, the C26 and all local

non-classified roads by construction vehicles and details of management of impact on the core path and cycle rout network.

**Reason**

To ensure proper management of the construction process, including impact on the road network.

**Condition**

5. That further application(s) for approval under the terms of Condition 1 shall be accompanied by details of an appointed Ecological Clerk of Works (ECoW). The details shall include contact details, the scope and responsibilities of the ECoW as well as confirmation of their power to halt or otherwise stop works which are not in accordance with the mitigation measures identified in the EIA or others, as may be approved.

**Reason**

To ensure appropriate oversight of the construction of the development

**Condition**

6. Prior to development commencing the applicant shall implement the measures detailed under Mitigation Measures Adopted as Part of the Project in Chapter 9 Hydrogeology, Geology and Ground Conditions of the submitted EIA report dated February 2022. All documentation be verified by a suitably qualified Environmental Consultant and submitted to the satisfaction of North Ayrshire Council, as Planning Authority.

**Reason**

To ensure proper consideration is given to ground conditions and ground water.

**Condition**

7. That further application(s) for approval under the terms of Condition 1 shall be accompanied by a Dust Management Plan. This shall include the measures detailed under Mitigation Measures Adopted as Part of the Project in Chapter 13 Air Quality of the submitted EIA report dated February 2022. All documentation be verified by a suitably qualified Environmental Consultant and submitted to the satisfaction of North Ayrshire Council as Planning Authority.

**Reason**

To ensure proper management of dust throughout the construction period.

**Condition**

8. That further application(s) for approval under the terms of Condition 1 shall be accompanied by an assessment of the details in terms of the rated noise level, as defined in BS4142:2014+A1:2019, from the operation of the facility. The assessment must demonstrate that the noise from the operation of the facility will not exceed the background noise level at the curtilage of any existing or consented noise sensitive property at the time of application and include details of a monitoring scheme for the first 12months of operation of the facility.

**Reason**

To ensure proper consideration of potential noise from the development.

**Condition**

9. That further application(s) for approval under the terms of Condition 1 shall be accompanied by a scheme to treat surface water arising from the or otherwise affecting the site, prepared in accordance with the principles and practices contained in 'The SuDS Manual' (CIRIA report C7453, published November 2015) and the requirements of The Water Environment (Controlled Activities) (Scotland) Regulations 2011, and certified by a suitably qualified person, shall be submitted to North Ayrshire Council, as Planning Authority, for written approval.

Any scheme approved shall include details of proposed ground levels, finished floor levels, and pre & post development overland flows that shall demonstrate that people and property would not be put at flood risk during the designed storm event (1 in 200 return period plus an allowance for climate change and urban creep) when the capacity of the proposed infrastructure is exceeded. In accordance with the recommendations of the submitted FRA, finished floor levels shall be set a minimum of 6m AOD, threshold levels shall be raised a minimum of 150mm above external ground levels and all key external infrastructure shall be elevated by at least 150mm or protected by bunds

**Reason**

To ensure proper consideration of surface water drainage.

**Condition**

10. That further application(s) for approval under the terms of Condition 1 shall be accompanied by a habitat survey dated not more than 1 year prior to the date of the submission of the application.

**Reason**

To ensure habitat and protected species considerations are of an appropriate date.

**Condition**

11. Prior to commencement of the works above ground level of development of the tower, details of a financial bond to be secured with the landowner for the removal of the tower in the event of redundancy shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. Any such bond shall be retained through the life of the development with confirmation to be provided to North Ayrshire Council, as Planning Authority, on a yearly basis following completion of the tower.

**Reason**

To ensure steps are in place to remove the tower should the site become redundant, in the interest of visual amenity, and in recognition of the landowner being ultimately responsible for compliance with any conditions.

**Condition**

12. Should the tower become redundant, it shall be removed within 6 months of redundancy. For the avoidance of doubt, redundancy means the factory not becoming operational within 3 years of construction of the tower or the factory ceasing to operate for a period of more than 1 year after first becoming operational.

**Reason**

To ensure the timely removal of the tower should the site become redundant, in the interest of visual amenity.

**Condition**

13. The prior to commencement of the development of the tower, details of the external finish shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. The development will thereafter be undertaken in accordance with any details as may be approved and the tower maintained with those details unless otherwise agreed in writing with the Planning Authority.

**Reason**

To ensure an appropriate external finish for the tower in the interest of visual amenity.

**Condition**

14. The prior to the commencement of the development of the tower, a Dust Management Plan for the control of dust from the construction of the tower shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. Thereafter the development shall be undertaken in accordance with any Plan as may be approved.

**Reason**

To ensure proper management of dust throughout the construction period.

**Condition**

15. That prior to the commencement of the development of the tower, a Construction Management Plan and Code of Practice, including details for monitoring and action against non-compliance shall be submitted to North Ayrshire Council, as Planning Authority, for approval. Thereafter the construction shall be carried out only as approved by the Plan and Code of Practice. For the avoidance of doubt this shall include an assessment of use of the rail and port connections as a first principle and the prohibition of the use of the A78 through Fairlie, the B780/B781, the C26 and all local non-classified roads by construction vehicles and details of management of impact on the core path and cycle rout network.

**Reason**

To ensure proper management of the construction process, including impact on the road network

**Condition**

16. That prior to the commencement of the development of the tower, details of an appointed Ecological Clerk of Works (ECoW) shall be submitted to North Ayrshire Council, as Planning Authority, for approval. The details shall include contact details, the scope and responsibilities of the ECoW as well as confirmation of their power to halt or otherwise stop works which are not in accordance with the mitigation measures identified in the EIA or others, as may be approved. The development will thereafter be undertaken only with the oversight of the appointed ECoW.

**Reason**

To ensure proper oversight of the construction of the tower.

**Condition**

17. The rated noise level, as defined in `BS4142:2014+A1:2019, from the operation of the tower must not exceed the background noise level at the curtilage of any existing or consented noise sensitive property at the time of application.

**Reason**

To ensure the operation of the tower does not cause undue noise disturbance or sterilise the wider area for further development.

**Condition**

18. The prior to the commencement of the development of the tower, that a scheme to treat surface water arising from the or otherwise affecting the site of the tower, prepared in accordance with the principles and practices contained in 'The SuDS Manual' (CIRIA report C7453, published November 2015) and the requirements of The Water Environment (Controlled Activities) (Scotland) Regulations 2011, and certified by a suitably qualified person, shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. Thereafter, the certified scheme shall be implemented prior to the completion of the development of the tower and maintained thereafter to the satisfaction of North Ayrshire Council, as Planning Authority.

Any scheme approved shall include details of proposed ground levels, finished floor levels, and pre & post development overland flows that shall demonstrate that people and property would not be put at flood risk during the designed storm event (1 in 200 return period plus an allowance for climate change and urban creep) when the capacity of the proposed infrastructure is exceeded. In accordance with the recommendations of the submitted FRA, finished floor levels shall be set a minimum of 6m AOD, threshold levels shall be raised a minimum of 150mm above external ground levels and all key external infrastructure shall be elevated by at least 150mm or protected by bunds

**Reason**

To ensure the proper treatment of surface water.

**Condition**

19. Prior to the commencement of the tower, confirmation that the basement proposals are sufficiently flood resilient/resistant, including an accompanying certified flood management plan suitably addresses residual flood risk at the site from all sources of flooding, certified by a suitable qualified person, shall be submitted in writing for the written approval of North Ayrshire Council, as Planning Authority.

**Reason**

To ensure the risk of flooding to basement level proposal is suitable addressed.

**Condition**

20. In the event that the works to commence the tower are not undertaken within 1 year of the date of this permission, an updated habitat survey dated not more than 1 year prior to the date of commencement shall be submitted to North Ayrshire Council, as Planning Authority, for written approval prior to the commencement.

**Reason**

To ensure habitat and protected species considerations are of an appropriate date.

**Condition**

21. Prior to the commencement of the development, details of omni-directional red aviation warning lights to be fitted to the tower shall be submitted to North Ayrshire Council, as Planning Authority, for approval in consultation with Prestwick Airport, Air Traffic Control and the Ministry of Defence. The lighting will thereafter be fitted and retained thereafter in accordance with any details as may be approved.

**Reason**

To meet the requirements of the relevant Air Authorities.

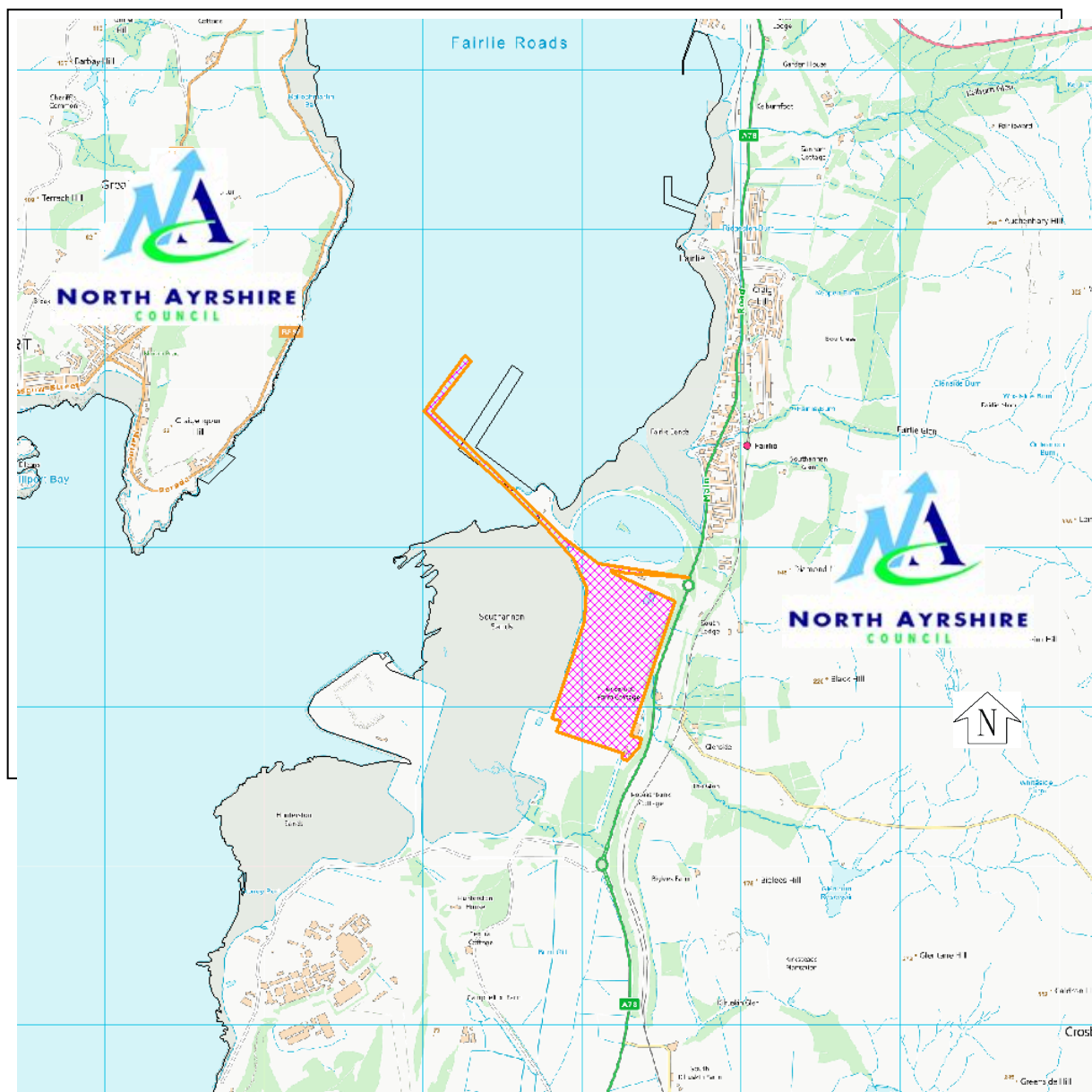
Yvonne Baulk  
Head of Service

For further information please contact Mr Iain Davies on 01294 324320.



## Appendix 1 – Location Plan

**DO NOT SCALE** Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. North Ayrshire Council Licence Number 100023393.





## NORTH AYRSHIRE COUNCIL

24 May 2023

### Planning Committee

Locality	Garnock Valley
Reference	23/00190/PP
Application Registered	15th March 2023
Decision Due	15th May 2023
Ward	Garnock Valley

---

<b>Recommendation</b>	Approved subject to Conditions
-----------------------	--------------------------------

---

<b>Location</b>	Trearne Quarry Gateside Beith North Ayrshire KA15 1HQ
<b>Applicant</b>	ASC Group F.A.O. Mr Laurie Clark
<b>Proposal</b>	Amendment of condition 2 of planning permission 15/00573/DCMS for the continuation of quarrying and the importation of soil forming materials to create a soils growing medium for the purpose of site restoration

---

### 1. Description

Trearne Quarry is located approximately 2km east of Beith and within 1km of Gateside. It contains reserves of limestone. Although quarrying at Trearne dates back to 1967, the current operating conditions, including a restoration scheme, were granted by the Council in March 2016 under certificate ref. 15/00573/DCMS.

This certificate was granted under the Review of Old Minerals Permissions (ROMP) process, which seeks to ensure that all working quarries are operated to modern environmental standards and to make adequate provision for restoration once mineral extraction is completed.

Condition 2 of certificate 15/00573/DCMS states:

*That all quarrying operations at the site shall be discontinued within 7 years from the date of this decision and the entire site shall be restored within a further 2 years in accordance with the approved restoration scheme (as required by condition 3 below) to the satisfaction of the Council, as Planning Authority.*

*Reason: In recognition of the projected lifespan of the quarry and to ensure proper restoration of the site.*

Under the terms of condition 2, quarrying operations required to cease by 14th March 2023, with all outstanding restoration works completed by 14th March 2025. The application to extend the lifespan of the quarry was submitted prior to the expiry date of the 2016 permission.

The limestone reserves at Trearne have not been fully extracted during the period of the consent due to a variety of factors, including market conditions and the economic impacts of the Covid-19 pandemic. The applicant estimates that a further 3 years of reserves remain in the quarry (approx. 90,000 tonnes) on the basis that between 30,000 and 50,000 tonnes are extracted per annum.

The application therefore seeks permission to extend the timescale for quarrying operations by a further three years. Thereafter, a further two years is requested for restoration of the land.

Restoration of the site would involve the importation of soil forming materials to create a soil growing medium, which would then be planted with grass. The restoration scheme has already been approved (drawing ref. OG104/ROMP/PA/F/09) and implemented for the earlier phases of working at Trearne.

A supporting statement provided with the application indicates that "there will be no change to permitted depths or operation and no changes to mineral extraction and processing methods, despatch and sales, and hours of operations." The hours of operation are governed by the previous consent, and stipulate the following:

Quarry protection and processing: 07.00hrs - 19.00hrs (Monday to Friday only)  
Plant maintenance: 07.00hrs - 19.00hrs (Monday to Friday) and 07.00hrs - 12.00hrs (Sat)  
Site restoration: 07.00hrs - 19.00hrs (Monday to Friday) and 07.00hrs - 14.00hrs (Sat)  
Road haulage: 07.00hrs - 19.00hrs (Monday to Friday) and 07.00hrs - 14.00hrs (Sat)

The permission granted in 2016 under ref. 15/00573/DCMS allows for the majority of the quarry floor to be infilled with manufactured soils and its seeding. Parts of the western face would be left bare for paleontological interest due to the SSSI designation, as past quarrying operations have exposed areas of geological value. An area to the south will become an extension to the pre-existing nature conservation area to the south of the permitted boundary. It is intended to facilitate public access once restoration is complete.

The quarry is accessed from an unclassified rural road which links the B777 to the east of Gateside to the A736. In terms of the adopted Local Development Plan (LDP), Trearne is located within the countryside where Strategic Policy 1 (The Countryside Objective) applies. Consideration of applications relating to mineral extraction is covered under Policy 33 - 'Responsible Extraction of Mineral Resources'. Strategic Policy 2 (Placemaking) also applies.

## Relevant Development Plan Policies

### SP1 - The Countryside Objective

We recognise that our countryside areas play an important role in providing homes, employment and leisure opportunities for our rural communities. We need to protect our valuable environmental assets in the countryside while promoting sustainable development which can result in positive social and economic outcomes. We want to encourage opportunities for our existing rural communities and businesses to grow, particularly on Arran and Cumbrae, and to support these areas so that they flourish.

We also recognise that, in general, countryside areas are less well suited to unplanned residential and other developments because of their lack of access to services, employment and established communities. We will seek to protect our prime and locally important agricultural land from development except where proposals align with this spatial strategy. In principle, we will support proposals outwith our identified towns and villages for:

- a) expansions to existing rural businesses and uses such as expansions to the brewery and distillery based enterprises in the area.
- b) ancillary development for existing rural businesses and uses, including housing for workers engaged in agriculture or forestry.
- c) developments with a demonstrable specific locational need including developments for renewable energy production i.e. wind turbines, hydroelectric schemes and solar farms.
- d) tourism and leisure uses, where they would promote economic activity, diversification and sustainable development, particularly where they develop our coastal tourism offer/ infrastructure.
- e) developments which result in the reuse or rehabilitation of derelict land or buildings (as recognised by the Vacant and Derelict Land Survey) for uses which contribute to the Green and Blue Network such as habitat creation, new forestry, paths and cycle networks.
- f) sensitive infilling of gap sites consolidating existing developments where it would define/provide a defensible boundary for further expansion.
- g) small-scale expansion of settlements on Arran and Cumbrae for community led proposals for housing for people employed on the island, where a delivery plan is included, and infrastructure capacity is sufficient or can be addressed by the development and where the proposal meets an identified deficiency in the housing stock and is required at that location. All proposals will be expected to demonstrate the identified housing need cannot be met from the existing housing land supply.
- h) new housing in the countryside where it is a replacement or converted building or it is a house of exceptional design quality.
- i) sympathetic additions to existing well-defined nucleated groups of four or more houses (including conversions) in close proximity to one another and visually identifiable as a group with some common feature e.g. shared access. Additions will be limited to 50% of dwellings existing in that group as of January 2005 up to a maximum of four new housing units (rounded down where applicable).

### Strategic Policy 2 - Placemaking

Our Placemaking policy will ensure we are meeting LOIP priorities to make North Ayrshire safer and healthier by ensuring that all development contributes to making quality places. The policy also safeguards, and where possible enhances environmental quality through the avoidance of unacceptable adverse environmental or amenity impacts. We expect that all applications for planning permission meet the six qualities of successful places,

contained in this policy. This is in addition to establishing the principle of development in accordance with Strategic Policy 1: Spatial Strategy. These detailed criteria are generally not repeated in the detailed policies section of the LDP. They will apply, as appropriate, to all developments.

## Six qualities of a successful place

### Distinctive

The proposal draws upon the positive characteristics of the surrounding area including landscapes, topography, ecology, skylines, spaces and scales, street and building forms, and materials to create places with a sense of identity.

### Welcoming

The proposal considers the future users of the site and helps people to find their way around, for example, by accentuating existing landmarks to create or improve views (including sea views), locating a distinctive work of art in a notable place or making the most of gateway features to and from the development. It should also ensure that appropriate signage and lighting is used to improve safety and illuminate attractive buildings.

### Safe and Pleasant

The proposal creates attractive places by providing a sense of security, including by encouraging activity, considering crime rates, providing a clear distinction between private and public space, creating active frontages and considering the benefits of natural surveillance for streets, paths and open spaces.

The proposal creates a pleasant, positive sense of place by promoting visual quality, encouraging social and economic interaction and activity, and by considering the place before vehicle movement.

The proposal respects the amenity of existing and future users in terms of noise, privacy, sunlight/daylight, smells, vibrations, glare, traffic generation, and parking. The proposal sufficiently investigates and responds to any issues of ground instability.

### Adaptable

The proposal considers future users of the site and ensures that the design is adaptable to their needs. This includes consideration of future changes of use that may involve a mix of densities, tenures, and typologies to ensure that future diverse but compatible uses can be integrated including the provision of versatile multi-functional greenspace.

### Resource Efficient

The proposal maximises the efficient use of resources. This can be achieved by re-using or sharing existing resources and by minimising their future depletion. This includes consideration of technological and natural means such as flood drainage systems, heat networks, solar gain, renewable energy and waste recycling as well as use of green and blue networks.

### Easy to Move Around and Beyond

The proposal considers the connectedness of the site for people before the movement of motor vehicles, by prioritising sustainable and active travel choices, such as walking, cycling and public transport and ensuring layouts reflect likely desire lines, through routes and future expansions.

## Policy 33 - Responsible Extraction of Mineral Resources

Proposals for the conventional extraction of mineral resources, including extraction of sand, gravel, coal and peat, will be supported provided that:

- i) a need can be demonstrated for the mineral which cannot be met from existing worked deposits or renewable, recycled or secondary sources; and
- ii) It has been demonstrated, for example through the submission of a waste management plan (as per the Management of Extractive Waste (Scotland) Regulations 2010), that any adverse impacts (including cumulatively) on local communities, individual houses, economic sectors, natural and historic environment (including recreational users) and sensitive receptors, can be satisfactorily mitigated, including by taking into account:
  - a. transportation/road traffic generation;
  - b. disturbance, disruption, blasting, vibration, pollution of land, air and water environment; and
- iii) there is a restoration and aftercare plan that includes for example, progressive restoration over the lifetime of the operation, remediation of dereliction, stabilisation actions, creation of natural habitat, new opportunities for recreational use, the long term monitoring of the water environment and an ongoing maintenance plan.

Development proposals for the exploration, appraisal and extraction of coal bed methane, underground coal gasification, shale gas, and other forms of hydrocarbons, which are extracted using unconventional means will not be supported. For new or extended proposals, a financial guarantee or bond may be required to ensure appropriate restoration, enhancement and aftercare following extraction of minerals. Development proposals for the extraction of peat will also be subject to the provisions of Policy 34: Protecting Peatland and Carbon Rich Soils.

## 2. Consultations and Representations

The application was subject to the statutory neighbour notification procedures, which included the publication of a notice in a local newspaper.

One representation was received, objecting to the application on the following grounds:

1. Is it not the law to be contacted and consulted currently under the Town and Planning Act?

*Response: Neighbour notification was carried out in accordance with statutory procedures, and a notice was published in the Ardrossan & Saltcoats Herald on 22nd March 2023.*

2. The reason that previous quarrier stopped blasting was it was causing building structure to crack and fail. I recall there was several at nearby village of Gateside.

*Response: The applicant's agent has advised that "condition 15 of planning certificate N/15/00573/DCMS provides a vibration limit/peak particle velocity of 6mms-1 for 95% of blasts, with no individual blast exceeding a peak particle velocity of 12mms-1 when measured at any vibration sensitive property in the vicinity of the site. This limit accords with most stringent proposed in Scottish Government Guidance contained in PAN 50 Annex D: "Controlling the Environmental Effects of Surface Mineral Workings: The Control of Blasting*

*at Surface Mineral Workings" and is put in place to prevent nuisance. There is no possibility of damage to property at these levels. There are no properties within 300m of the site and therefore good practice blasting techniques will ensure these limits continue to be met."*

3. The area where the planned blasting is to happen has several European protected species in that area. There is a very rare orchid where blasting is set to happen.

*Response: The applicant's agent has advised that "conditions 25, 26 and 27 of planning certificate 15/00573/DCMS require protected species checks. My client would be comfortable to incorporate an ecological clerk of works, habitat check and mitigation prior to further vegetation stripping by way of a condition." A pre-commencement condition could be attached to address this issue.*

4. I would also make you aware that there is planned heavy haulage going through Gateside which I have sent a report to the ministry of transport regarding this matter.

*Response: The applicant's agent has advised that "the proposal would result in 90,000 tonnes of rock being extracted over 3 years (30,000 tonnes per annum). This equates to less than 1 vehicle movement per hour (total in and out) on average assuming an average 20 tonne load is exported over permitted working hours (7am until 7pm Monday to Friday and 7am until 2pm Saturday). This level of vehicle movements should have little or no impact upon the road network." See also NAC Active Travel & Transport consultation response, below*

5. The noise impact of a mobile crusher plant is from 108 to 122 dB, which will be heard miles away. As health and safety has come a long way from the previous quarry, these mitigating factors should be evaluated.

*Response: It is considered that the operating conditions for Trearne Quarry remain up to date, having been granted approval in 2016. The current application seeks to extend the working life of the quarry for a further 3 years, followed by a 2 year restoration programme. The applicant's agent has advised that "conditions 8 and 9 of planning certificate 15/00573/DCMS provide for noise limits of 50dB Leq 1hr for normal operations and 70dB Leq 1hr for temporary operations at the closest residential properties. These are appropriate good practice limits in accordance with Scottish Government Guidance contained in Planning Advice Note 50 "Controlling the environmental effects of surface mineral workings Annex A. The Control of Noise at Surface Mineral Workings". These limits will continue to be adhered to preventing impacts." As noted, the remaining operations at Trearne would be subject to the same environmental standards as the permission granted by the Council in 2016 under ref. 15/00573/DCMS. (See also Environmental Health consultation response and Analysis sections, below).*

## **Consultations**

**NAC Active Travel & Transportation** - no objections.

*Response: Noted.*

**NAC Environmental Health** - no objections subject to the previous conditions continuing to be implemented on matters such as dust control, noise and vibration.



*Response: As noted above, the conditions of the ROMP certificate, 15/00573/DCMS, would continue to have effect in the proposed extension of time for quarrying and restoration operations.*

**Beith Community Council** - no comments.

### **3. Analysis**

Section 42 of the Town and Country Planning (Scotland) Act 1997 is a mechanism which allows for the submission of a planning application for the development of land without complying with condition(s) subject to which a previous permission (in this case a ROMP certificate) was granted. Section 42 of the Act stipulates that in this type of application the "planning authority shall consider only the question of the conditions subject to which permission should be granted."

Circular 4/1998 sets out the tests for planning conditions, as follows:

- Need for a Condition
- Relevance to Planning
- Relevance to the Development to be Permitted
- Ability to Enforce
- Precision
- Reasonableness

The determining issue in this case is whether the proposed modification to the condition attached to the previous grant of consent would accord with the relevant LDP policies. In terms of the adopted LDP, the Countryside Objective seeks to "encourage opportunities for our existing rural communities and businesses to grow" whilst protecting the countryside and promoting sustainable development. As Trearne Quarry has been established for over 50 years, there is no requirement to justify the principle of development in this case.

The proposed 3 year extension of time for mineral extraction at Trearne, followed by 2 years of site restoration, would enable the remainder of the quarry to be worked in alignment with the ROMP consent granted by the Council in 2016. As such, the proposal would accord with the Countryside Objective.

Policy 33 'Responsible Extraction of Mineral Resources' supports the conventional extraction of sand, gravel, coal and peat, subject to meeting a range of criteria. Since the quarry already has a modern suite of planning conditions in terms of the established ROMP consent, it is considered that the requirements of Policy 33 are being met, and would continue to be met in terms of the proposed extension of time until May 2026. Restoration would commence afterwards, with the estimated date for completion being May 2028. In the event that restoration works were not completed by that time, the applicants would require to discuss a further extension of time for the Council's approval.

Strategic Policy 2 (Placemaking) aims to safeguard, and, where possible, enhance environmental quality through the avoidance of unacceptable adverse environmental or amenity impacts. As noted above, there is already a suite of modern planning conditions which provide the basis for the regulation of routine site operations in accordance with modern working practices as well as an approved site restoration plan.

Whilst the quarry operations would be extended by a further 3 years, the associated activities would be subject to the range of conditions already in place. In total, there are 28 conditions which cover all relevant planning and environmental matters in respect of quarry operations, restoration and aftercare at Trearne. It is therefore considered that the proposed additional 3 year working period would take place within the context of adequate environmental and amenity safeguards. The previously approved conditions provide the basis to ensure an appropriate balance is struck between the economic viability of the quarry and the protection of amenity in the rural area around Trearne. The proposal would accord with Strategic Policy 2 for the reasons above.

In applying the Circular 4/1998 tests for conditions to the proposal, it is considered that the proposed variation would meet all six tests. There are no other material considerations.

The application has also been assessed against the adopted National Planning Framework 4. It has been determined that the proposal to extend the lifespan of Trearne Quarry by a further three years does not raise any significant strategic planning issues which conflict with the foregoing assessment.

Accordingly, it is considered that planning permission could be granted for the application, which would extend the period of consent until 24th May 2026. As noted above, an additional condition in respect of the appointment of an ecological clerk of works, habitat check and mitigation has been offered by the applicants. For the avoidance of doubt, all other conditions attached to the ROMP consent would continue to apply.

#### **4. Full Recommendation**

Approved subject to Conditions

#### **Reasons for Decision**

##### **Condition**

1. That all quarrying operations at the site shall be discontinued within 3 years from the date of this decision and the entire site shall be restored within a further 2 years in accordance with the approved restoration scheme (as required under the periodic review of minerals consent 15/00573/DCMS) to the satisfaction of the Council, as Planning Authority. For the avoidance of doubt, all other conditions attached to consent ref. 15/00573/DCMS would continue to apply.

##### **Reason**

To define the scope of the consent and to ensure that the conditions attached to 15/00573/DCMS are complied with (other than condition 2).

##### **Condition**

2. That no further vegetation or soil stripping shall take place on the site until the developer has appointed an ecological clerk of works to undertake pre-commencement habitat surveys together with recommendations on any mitigation measures as may be necessary. A report of the survey and recommendations shall be submitted for the written approval of North Ayrshire Council as Planning Authority. Thereafter, the implementation of the consent shall be undertaken in accordance with such details as may be approved.

##### **Reason**

To ensure that any habitats which may be present on the site are taken into consideration and appropriately addressed prior to the recommencement of quarry operations.

Yvonne Baulk  
Head of Service

For further information please contact Mr A Hume, Senior Development Management Officer, on 01294 324318.

## Appendix 1 – Location Plan

**DO NOT SCALE** Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. North Ayrshire Council Licence Number 100023393.

